#### IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI HATTIESBURG DIVISION

JOHN McGILBERRY PLAINTIFF

VS. CIVIL ACTION NO. 2:10cv159 KS-MTP

AMERICAN OPTICAL CORPORATION, ET AL.

**DEFENDANTS** 

# AMERICAN OPTICAL CORPORATION'S RESPONSE TO PLAINTIFF'S EMERGENCY MOTION TO REMAND AND HIS SUPPLEMENTAL EMERGENCY MOTION TO REMAND

American Optical Corporation ("American Optical") responds to Plaintiff's Emergency Motion to Remand and his Supplemental Emergency Motion to Remand as follows:

1.

Plaintiff filed this case on May 14, 2007. Pursuant to 28 U.S.C. §§ 1332 and 1446, American Optical properly removed the case on the basis of diversity jurisdiction on June 25, 2010.

2.

The amount in controversy is met, and there is complete diversity between Plaintiff, a Mississippi resident, and the properly joined defendants: here, American Optical, a business incorporated in Delaware with its principal place of business in Connecticut. It was not necessary for American Optical to obtain the consent/joinder of defendant E.D. Bullard, Inc., as Plaintiff abandoned his claims against that company and did not otherwise identify having used its products. *See Farias v. Bexar County Bd. of Trustees*, 925 F.2d 866, 871 (5th Cir. 1991) (holding that even diverse defendants need not join in removal if plaintiff cannot establish a cause of action against them).

3.

American Optical timely filed this removal pursuant to 28 U.S.C. § 1446(b), which requires a removal to be filed within 30 days of the receipt by the defendant of "a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." American Optical filed this Notice of Removal on June 25, 2010, within 30 days of the date of Plaintiff's May 26, 2010, deposition; the May 28, 2010, dismissal of the last Mississippi defendant; the June 3, 2010, receipt of the McGilberry deposition transcript; and the June 23, 2010, answers of plaintiff to requests for admission. At the least, prior to May 26, 2010, American Optical did not have information which made it "unequivocally clear and certain" that the case had become removable." *Bosky v. Kroger Texas*, *LP*, 288 F.3d 208, 21 (5th Cir. 2002).

4.

While 28 U.S.C. § 1446(b) contains a one-year limitation for removals based on diversity jurisdiction, the Fifth Circuit's equitable exception to this rule excuses the filing of this removal more than one year after the case was filed. *See generally Tedford v. Warner-Lambert Co.*, 327 F.3d 423, 428-29 (5th Cir. 2003) (recognizing equitable exception where Plaintiff's inequitable conduct results in forum manipulation). As set forth in more detail in the accompanying brief, Plaintiff denied, on the eve of trial, product usage claims he had made under oath earlier in the litigation, and he abandoned claims against the majority of the defendants including the last remaining Mississippi defendant. This inequitable conduct constituted forum manipulation, justifying the equitable exception to the one year rule.

5.

Therefore, for the foregoing reasons, as set forth in more detail in the accompanying

Brief being filed herewith, American Optical respectfully requests that the Court deny Plaintiff's

Emergency Motion to Remand and its Supplemental Emergency Motion to Remand.

6.

In further support of its Response in opposition to Plaintiff's Motions, American Optical attaches the following exhibits:

- Ex. A Plaintiff's Expert Designations
- Ex. B Plaintiff's Complaint
- Ex. C State Court Docket as of June 8, 2010
- Ex. D Dismissal Orders
- Ex. E Quickrete Dismissal
- Ex. F Quickrete Answer
- Ex. G Plaintiff's Affidavit with Attached Fact Sheets
- Ex. H Plaintiff's 2004 Deposition (Volume I)
- Ex. I Plaintiff's 2004 Deposition (Volume II)
- Ex. J Agreed Initial Discovery Order
- Ex. K Plaintiff's Original Discovery Responses
- Ex. L Transcript from Hearing on Motions for Summary Judgment
- Ex. M Orders Denying Motions for Summary Judgment and Related Petitions for Interlocutory Appeal
- Ex. N Motion to Compel without exhibits and American Optical Joinder
- Ex. O Plaintiff's Supplement Discovery Responses
- Ex. P Plaintiff's Answers to Requests for Admission

#### Case 2:10-cv-00159-KS-MTP Document 8 Filed 07/06/10 Page 4 of 5

- Ex. Q Plaintiff's May 26, 2010, Deposition
- Ex. R Excerpts from Deposition of Steven Haber, M.D.
- Ex. S Email of June 8, 2010, Regarding Dismissal of Quickrete Defendant
- Ex. T Correspondence from Plaintiff's Counsel to American Optical Counsel of May 28, 2010
- Ex. U Report of Steven Stogner, M.D.
- Ex. V Documents from Mississippi Secretary of State
- Ex. W Orders of Dismissal Entered After May 26, 2010.

Respectfully submitted,

AMERICAN OPTICAL CORPORATION, Defendant

BY: Robert B. Ireland
ROBERT B. IRELAND, III

#### OF COUNSEL:

Walter T. Johnson (MSB #8712) Michael O. Gwin (MSB #5086) Joseph G. Baladi (MSB #100286) Robert B. Ireland, III (MSB #100708) WATKINS & EAGER PLLC 400 East Capitol Street Post Office Box 650 Jackson, MS 39205

Phone: 601-965-1900 Fax: 601-965-1901

#### **CERTIFICATE OF SERVICE**

I, Robert B. Ireland, do hereby certify that on July 6, 2010, I electronically filed the above and foregoing pleading with the Clerk of the Court using the ECF System which sent notification of such filing to the following:

Fred Krutz, III; fred@fpwk.com

Jennifer J. Skipper; skipperjj@fpwk.com

John T. Givens; Johnny@portermalouf.com

Timothy W. Porter; tim@portermalous.com

Joseph G. Baladi; jbaladi@watkinseager.com

Michael O. Gwin; mgwin@watkinseager.com

Walter T. Johnson; wjohnson@watkinseager.com

I also certify that on July 6, 2010, I caused to be mailed by United States Mail, postage fully prepaid, a true and correct copy of the above and foregoing document to the following:

R. Allen Smith, Jr.The Smith Law Firm, PLLC681 Towne Center Boulevard, Suite BRidgeland, MS 39157

Hal Roach, Jr Willingham, Fultz & Coughill LLP 808 Travis, Ste. 1608 Houston, TX 77002

Thomas McHale Steve Bryant & Associates 3618 Mt. Vernon Houston, TX 77006

This 6<sup>th</sup> day of July, 2010.

/s/ Robert B. Ireland Robert B. Ireland, III

# IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN MCGILBERRY

**PLAINTIFF** 

VS.

CIVIL ACTION NO.: 2007-16-CV5

PANGBORN CORPORATION, ET AL.

DEFENDANTS

# PLAINTIFF'S EXPERT WITNESS DESIGNATIONS

COMES NOW, John Mcgilberry, by and through his counsel of record, and files this

Designation of Expert Witnesses as follows:

Dr. Vernon Rose 3569 St. Ignatuis Lane Franklin, TN 37209 (281) 535-1945 CV Attached as Exhibit "A"

Dr. Rose is a Certified Industrial Hygienist and a Certified Safety Professional. Dr. Rose may testify to the efficacy and performance of certain masks, respirators, and hoods. He may testify regarding the adequacy of labels, use instructions, use limitations and other marketing of certain devices sold for respiratory protection and for use in abrasive blasting including sand and flint. He may give testimony regarding the conduct of each of the Defendants and whether or not it deviates from the standard of care. He may render testimony regarding whether or not a reasonably prudent seller to the sandblasting industry would continue to sell sand or begin selling sand after 1974, 1980 and other specific points in time. He may render testimony regarding what a reasonably prudent seller or marketer of equipment, respiratory equipment and/or sand should have known at different points in time, and what such Defendant probably did know from documents generated or received by such defendant and/or its employees. He may testify regarding the state of knowledge of employer compliance with the OSHA standards based upon studies and published literature dealing with the abrasive blasting industry and other industries, such that a reasonably prudent seller should have known, and probably did know, that most employers were choosing the wrong respirators, had inadequate respiratory protection programs and did not fully appreciate the hazards of abrasive blasting with silica sand. They were not teaching employees why respirators were needed in and around abrasive blasting, were not using air-supplied equipment properly or not using it at all. Dr. Rose may testify that the conduct and products of the defendants were causes of the overexposure and injury in fact. Dr. Rose may testify that sand and flint should not be sold for use in abrasive blasting due to the well-known and well-reported hazards inherent in their use.



Dr. Rose may testify as to what a reasonably prudent person, manufacturer or seller of sand, sandblasting equipment, or respiratory protection should have known and done as a result of the crescendo of regulatory activity in the 1970's as it relates to sandblasting, use of respirators, use of high silica containing abrasives, etc.

Dr. Rose may testify as to what a reasonably prudent person, manufacturer or seller should have known and done as a result of the Tulane Studies, the Boeing Studies, the Centaur Study, and others.

Dr. Rose may also testify as to what a reasonably prudent person should have known and done after notice that persons doing abrasive blasting claimed to have silicosis after using high silica containing abrasives and wearing various forms of protection, etc.

Dr. Rose may also render testimony in the following areas: industrial hygiene, performance of respirators, marketing of respirators, selection and use of respirators, the NIOSH criteria document, effects of silica exposure in humans and animals, state of-the-art regarding silica hazards, overexposure and under protection, industry knowledge of silica hazards, the occurrence of disease and disability from silicosis and other silica-related conditions in sandblasting, overexposure and under protection, the restriction of the use of high silica containing abrasives by governments, countries, regulatory agencies, and other groups, the regulation of silica, the Hazard Communication Act, the proposal to ban high silica containing abrasives in the United States, the industry response to such a proposal, the Silica Safety Association, product characteristics of products in this case, adequacy of warnings, defects of products, unreasonably dangerous products, misrepresentations contained in product literature, what reasonably prudent sellers should have done, substitute products, other subjects which are not capable of description at this time. Dr. Rose's opinions will be based in part on performance of certain products and/or respirators, design defects of certain products and/or respirators, conduct of certain sellers of abrasives, respirators and other products, the scientific and medical literature, trade literature, product literature, warnings given by defendants, product containers, standards issued by industry, standards issued by the government, studies conducted by industry, the government and others, his research and writing, his review of depositions and documents in this and other silicosis cases, and documents generated by or in the possession of certain defendants.

The opinions of Dr. Rose are based on his knowledge, skill, experience, training, and education that he has obtained throughout his career including his expertise as an industrial hygiene engineer. His testimony may also be based on his review of medical records. Additionally, he may respond to any and all issues raised by the defense or any of the defenses experts in either their reports, depositions, or in their testimony at trial.

Dr. Rose may testify in areas of liability, causation, and damages.

Dr. Rose will testify regarding his background, experience and education as an industrial hygienist, his doctorate in Occupational Health, and his board certification in industrial hygiene. Dr. Rose will testify as to his opinions, research, and studies formed during periods in which he held positions with the National Institute for Occupational Safety and Health (NIOSH), the U.S. Department of Labor, and the Bureau of Occupational Safety and Health (BOSH).

Dr. Rose may testify regarding the carcinogenic potential of silicosis and appropriate control measures. He will testify as to environmental measurements regarding same, evaluation of performance, air monitoring, and clearance inspections. Dr. Rose may testify concerning the conditions at Plaintiff's work sites based on testimony of coworkers, documents and discovery responses. Dr. Rose may further testify that Defendants' actions constituted negligence, gross negligence, and indicated that they were aware of the substantial certainty that their actions could or would result in significant illnesses and/or deaths. Dr. Rose may testify that Defendants were in violation of regulations promulgated by the United States government, and that Defendants violated their duties under the Occupational Safety and Health Act and its implementing regulations. Dr. Rose may further testify that Defendants were aware, or should have been aware, of the hazards of silica no later than the 1930s, as the result of medical, scientific and industrial hygiene literature available to all Defendants. Dr. Rose may testify as to the aerodynamic qualities, migration, re-entrainment, and drift of silica particles, and how such silica particles increase the risk of silica-related disease to persons who do not directly use silica-containing products.

Dr. Rose may testify as to the releasability of silica particles from various silica containing products, and silica-related industry and that the fracturing of that silica, and release into the air, poses an unreasonable hazard. Dr. Rose may offer opinions concerning exposures at Plaintiff's jobsites, including precautions needed to protect workers at those sites. Dr. Rose may also testify as to cancer trends in selected industries, cancer protection standards, and standards for control for carcinogens in the workplace.

The opinions of Dr. Rose will be supplemented when the defendants fully respond to the discovery in this matter. At that time, it is expected that his opinions will address new issues, which cannot be identified at this time. He may also testify in rebuttal to testimony by defendants' experts in his area of expertise.

Dr. Edward W. Karnes, Ph.D 5843 Willowbrook Drive Morrison, Colorado 80465 (303) 697-9650 CV Attached as Exhibit "B"

Dr. Karnes has special knowledge and expertise in the area of manufacturer warnings. Dr. Karnes may testify as to his various areas of his expertise. Dr. Karnes is expected to testify as to the adequacy of warnings and instructions, safety analysis, foreseeable use, marketing and packaging, hazard perception, human factors and safety communications, with respect to Defendants'

products. Dr. Karnes may also testify regarding issues of liability, causation, and damages.

Dr. Karnes' mental impressions and opinions would be based on his experience, education, training and expertise, documents produced during discovery, interviews with Plaintiffs and others, Plaintiff's depositions, other witnesses' depositions and some or all of the testimony form the fact and exert witnesses.

Dr. Karnes should be prepared to report his mental impressions and opinions at a reasonable time after he is provided with all relevant documents produced during discovery, all relevant records obtained from third parties, and all fact witnesses' depositions that have been completed. At the time Dr. Karnes is offered for deposition, he intends to bring his entire case file for Defendant's inspection, which includes all documents, and things that Plaintiffs have provided to Dr. Karnes in anticipation of this testimony.

Dr. Steven W. Stogner, M.D. 415 S. 28<sup>th</sup> Ave. Hattiesburg, MS 39401 (601) 268-5650 CV Attached as Exhibit "C"

Dr. Stogner has attained a board certification in the fields of internal medicine, pulmonary medicine and critical care medicine. Dr. Stogner's curriculum vitae is attached hereto as Exhibit "C." Dr. Stogner may testify as to his various areas of expertise.

Dr. Stogner may testify as to all matters pertaining to his review of the Plaintiff's medical records, x-rays, expert reports and supplemental expert reports; the diagnostic criteria used to diagnose silica related diseases; the Plaintiff's medical condition; his opinion as to whether the Plaintiff suffers from silica related disease and the basis of such opinions; and his prognosis with regard to the Plaintiff's medical condition. He may also provide testimony regarding general medical issues with an emphasis on the respiratory system and the effect that silica has on human health generally and the effect that silica has had on the Plaintiff in particular.

Dr. Stogner may also be called on to provide testimony regarding the following issues: the nature of the disease silicosis; State of the Art knowledge of silicosis; the physiology of the lung, the heart, the macrophage, the cilia and other relevant body parts; the effect of silica particles on the lungs and body generally and how fibrosis nodules are formed on the lungs from silica particles; the diagnosis of silicosis; the cost of medical care; treatment methods; respiratory failure; care for persons in respiratory decline and failure; environmental and occupational health issues relative to exposure, latency and dose-response; and factors with effect the progression of silicosis.

Dr. Stogner may express opinions of a general medicine nature. He may address causation of silicosis and or the occurrence of silicosis in the many silicotics who he has examined and taken occupational histories from. He may also express opinions on the relationship of cancer and

autoimmune diseases, which includes systemic lupus erythematosus (SLE), to the disease of silicosis. He may discuss the general trends of under protection, overexposure, and the occurrence of disease. He may discuss cases of silicosis which have occurred in persons who wore air supplied equipment.

Dr. Stogner's opinions will be based on the medical records reviewed in this case, x-rays reviewed in this case, his training, expertise in the field of pulmonology and occupational lung diseases, applicable medical literature, review of records and the Plaintiff's sandblasting history. Additionally, he may respond to any and all issues raised by the defense or any of the defenses experts in either their reports, depositions, or in their testimony at trial.

David Rosner, Ph.D.
Professor of History and Sociomedical Sciences
Co-Director, Center for the History and Ethics of Public Health Columbia
University
Mailman School of Public Health
722 West 168<sup>th</sup> Street, 9th Floor
New York, NY 10032
CV Attached as Exhibit "D"

Dr. Rosner is a historian with special knowledge and expertise in the area of public health. Dr. Rosner has dedicated numerous hours to the study of the emergence of silicosis as a national social crisis and the response to this crisis by public health officials, labor officials and business entities. Dr. Rosner may testify as to his various areas of expertise.

Dr. Rosner may be called on to provide testimony regarding the following issues: occupational disease; public health; the history of industrial hygiene; the recognition of silicosis in the United States in the early years of the twentieth century; the response of industry to the advent of silicosis; industry knowledge of the dangers of silicosis; the role of industry in developing the definition of "industrial lung disease"; attempts by industry to resolve the silicosis crisis; advertisements generated by Defendants; the history of regulation relative to silicosis; the risk confronted by workers who used and/or were exposed to silica; and job sites that constitute "high risk environments." Dr. Rosner may also provide testimony regarding the issues of liability, causation and damages.

As Dr. Rosner becomes aware of additional facts and opinions of other experts and witnesses, he may testify as to the opinions suggested by the additional facts or in response to the opinions of other experts. Additionally, he may respond to any issues raised by the Defendants or Defendants' experts either in their reports, depositions or testimony at trial.

Dr. Rosner's opinions would be based on his vast research, experience, education, training, expertise, documents produced during discovery, interviews with the Plaintiff and others, the Plaintiff's depositions, other witness depositions and all other testimony provided by other expert

and fact witnesses.

Dr. Rosner should be prepared to report his opinions and research findings at a reasonable time after he is provided with all relevant documents produced during discovery, all relevant records obtained from third parties and all fact witness depositions that have been completed.

Gerald E. Markowitz, Ph.D.
Distinguished Professor of History John Jay College of Criminal Justice
89910 Avenue
New York, NY 10019
(212) 237-8458
CV Attached as Exhibit "E"

Dr. Markowitz is a historian with special knowledge and expertise in the area of public health. Dr. Markowitz has dedicated numerous hours to the study of the emergence of silicosis as a national social crisis and the response to this crisis by public health officials, labor officials and business entities. Dr. Markowitz may testify as to his various areas of expertise.

Dr. Markowitz may be called on to provide testimony regarding the following issues: occupational disease; public health; the history of industrial hygiene; the recognition of silicosis in the United States in the early years of the twentieth century; the response of industry to the advent of silicosis; industry knowledge of the dangers of silicosis; the role of industry in developing the definition of "industrial lung disease"; attempts by industry to resolve the silicosis crisis; advertisements generated by Defendants; the history of regulation relative to silicosis; the risk confronted by workers who used and/or were exposed to silica; and job sites that constitute "high risk environments." Dr. Markowitz may also provide testimony regarding the issues of liability, causation and damages.

As Dr. Markowitz becomes aware of additional facts and opinions of other experts and witnesses, he may testify as to the opinions suggested by the additional facts or in response to the opinions of other experts. Additionally, he may respond to any issues raised by the Defendants or Defendants' experts either in their reports, depositions or testimony at trial.

Dr. Markowitz's opinions would be based on his vast research, experience, education, training, expertise, documents produced during discovery, interviews with the Plaintiff and others, the Plaintiff's depositions, other witness depositions and all other testimony provided by other expert and fact witnesses.

Dr. Markowitz should be prepared to report his opinions and research findings at a reasonable time after he is provided with all relevant documents produced during discovery, all relevant records obtained from third parties and all fact witness depositions that have been completed.

Dr. Glenda Glover, Ph.D. Economic Analysis Inc. 330 Four Seasons Drive, #A-24 Jackson, MS 39206 CV Attached as Exhibit "F"

Dr. Glenda Glover holds the degrees of Juris Doctor, Ph.D. in Business Economics and Policy, M.B.A. in Accounting, and Bachelor of Science in Mathematics. Dr. Glover obtained additional training in the field of business ethics, but also has undertaken teaching business ethics courses. Dr. Glover has more than 20 years of experience in higher education, economic development, and corporate financial management. She has served as an expert witness in the past. The Plaintiffs may call Dr. Glover as an expert in economic loss suffered by the Plaintiff. This testimony will include, but not be limited to, the net present cash value of economic damages. Dr. Glover's opinions are based on her knowledge, skill, experience, training, and education that she has obtained throughout her career including her experience as an attorney, accountant, marketing professor, her training in business ethics, and her position as Dean of the Business School at Jackson State University. Dr. Glover is a broadly educated and experienced individual whose testimony will provide the jury with a better understanding of the complicated issues at this trial. Her testimony may also be based on her review of Plaintiff's medical records, her observation of any examination of Plaintiff, analysis of scientific literature, deposition testimony, documents produced by the Defendants, and exhibits in this case. She will also provide testimony regarding areas relevant to punitive damages, including but not limited to net worth analysis, corporate ethics and corporate misconduct. Dr. Glover's opinions may be supplemented to the extent required by the Mississippi Rules of Civil Procedure.

Charles N. Dennis, Ph.D, CFA Economist 102 Darby Road Hattiesburg, Mississippi 39402-2307 (601) 268-9659 CV Attached as Exhibit "G"

Dr. Dennis is a Chartered Financial/Economist Analyst. The Plaintiff expects to call Dr. Dennis as an expert in the field of economics.

Dr. Dennis is expected to testify regarding the net worth of the Defendants and the meaning of the Defendants' financial statements. Dr. Dennis will testify as to economic damages suffered by the Plaintiff as well. His opinions cannot be finalized until he receives financial documents from the Defendants, which have been previously requested or will be requested.

Dr. Dennis anticipates reviewing the Defendants 10-K reports; annual reports; financial statements; balance sheets; print; radio; and television advertisements; cost/benefit analysis; sales projections; profit/loss statements; and documents issued to stockholders. Dr. Dennis' final

opinions will be provided when the Defendants fully comply with discovery.

The opinions of Dr. Dennis will be supplemented when the Defendants fully respond to the discovery in this matter. At that time, it is expected that his opinions will address new issues, which cannot be identified at this time. He may also testify in rebuttal to testimony by defendants' experts in his area of expertise. Dr. Dennis' CV is being produced with this Designation to Defendants.

Howard T. Katz, M.D.
Gulf States Physical Medicine and Rehabilitation
1151 North State Street, Suite 511
Jackson, MS 39202
CV Attached as Exhibit "H"

Dr. Katz is board-certified in Physical Medicine and Rehabilitation.

Dr. Katz may testify as to the Plaintiff's future medical needs, medical assessment, determine if maximum medical improvement has been achieved, impairment rating, estimate of future medical needs, functional limitations, and costs associated with each of these areas.

Dr. Katz' mental impressions and opinions are based on his experience, education, training, and expertise, documents produced during discovery, interviews, and/or examinations with Plaintiff and others, Plaintiff's depositions, other witnesses' depositions, and some or all of the testimony from the fact and expert witnesses.

Frank L. Giles, Ph.D Rehabilitation Consultant Giles & Associates, Inc. 150 Bridge Water Drive Madison, Mississippi 39110-8275 (601) 898-7775 CV Attached as Exhibit "I"

Dr. Giles is a Certified Rehabilitation Counselor. Dr. Giles may testify as to the Plaintiff's pre- and post injury earning capacity. The Plaintiff's ability to perform work, analysis of the Plaintiff's employability, the Plaintiff's loss of access to the labor market, a life care plan for the Plaintiff, as well as vocational evaluation and testing. In addition, Dr. Giles may testify as to the costs and expenses associated with these areas.

Dr. Giles may also testify as to the Plaintiff's lost wages, earning capacity, loss of household services and loss of economic support to the Plaintiff's family. Dr. Giles may also testify regarding other economic damages experienced by the Plaintiff resulting from the Defendants' conduct.

Dr. Giles' mental impressions and opinions are based on his experience, education, training, and expertise, documents produced during discovery, interviews and/or examinations with Plaintiffs and others, Plaintiff's depositions, other witnesses' depositions, and some or all of the testimony from the fact and expert witnesses.

#### Plaintiff's Treating Physicians

The Plaintiff's treating physicians may offer expert opinions regarding their examinations, treatment, etiological factors, diagnoses, prognoses, and quality of life of patients. Their opinions will be based upon their education, background, and experience, their examination, care and treatment of Plaintiff, and their review of the Plaintiff's medical records.

#### Reservation

The Plaintiff reserves the right to call, any and all, experts designated or previously designated by the defense.

The Plaintiff reserves the right to call any expert to rebut testimony or opinions of defendant's experts.

The Plaintiff reserves the right to withdraw designation of any expert previously designated by the Plaintiffs.

DATED, this the 2nd day of July, 2008.

Respectfully submitted,

JOHN MCGILBERRY, PLAINTIFF

By:

TIMOTHY W. PORTER, Attorney for Plaintiff

#### Of Counsel:

Timothy W. Porter, MSB No. 9687 Patrick C. Malouf, MSB No. 9702 John T. Givens, MSB No. 101561 PORTER & MALOUF, P.A. Post Office Box 12768 Jackson, Mississippi 39236-2768 Telephone: (601) 957-1173 Facsimile: (601) 957-7366 R. Allen Smith, Jr., MSB No. 99984 THE SMITH LAW FIRM, P.L.L.C. 681 Towne Center Boulevard, Suite B Ridgeland, Mississippi 39157 Telephone: (601) 952-1422

(601) 952-1426

Facsimile:

#### **CERTIFICATE OF SERVICE**

I, TIMOTHY W. PORTER, hereby certify that I have this day caused a true and correct copy of the above and foregoing instrument to be electronically delivered to all known counsel of record.

This, the 2nd day of July, 2008.

TIMOTHY W. PORTER

# IN THE CIRCUIT COURT FOR THE FIRST JUDICIAL DISTRICT OF JONES COUNTY, MISSISSIPPI

JOHN MCGILBERRY

**PLAINTIFF** 

VS.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, ET AL.

**DEFENDANTS** 

# PLAINTIFF'S FIRST SUPPLEMENTAL **DESIGNATION OF EXPERT WITNESSES**

COMES NOW, the Plaintiff, John McGilberry, by and through his attorneys of record, and hereby submit the following Expert Witness who may be called live or by deposition to be taken in this case in accordance with the Scheduling Order entered in this matter, as follows:

#### I. First Supplement to Plaintiffs' Retained Expert Witnesses

1. Kenneth E. Duff, Jr., M.D. Hattiesburg Radiology Group, PLLC 5000 West 4th Street Hattiesburg, Mississippi 39402-1077 (601) 264-2121

Please find Dr. Duff's Curriculum Vitae attached hereto as Exhibit "A".

DATED, this the 9<sup>th</sup> day of July, 2009.

Respectfully submitted,

JOHN MCGILBERRY, PLAINTIFF

By:

TIMOTHY W. PORTER, Attorney for Plaintiff

#### Of Counsel:

Timothy W. Porter, MSB No. 9687 Patrick C. Malouf, MSB No. 9702 John T. Givens, MSB No. 101561 PORTER & MALOUF, P.A. Post Office Box 12768 Jackson, Mississippi 39236-2768 Telephone: (601) 957-1173 Facsimile: (601) 957-7366

R. Allen Smith, Jr., MSB No. 99984 THE SMITH LAW FIRM, P.L.L.C. 681 Towne Center Boulevard, Suite B Ridgeland, Mississippi 39157 Telephone: (601) 952-1422 Facsimile: (601) 952-1426

# **CERTIFICATE OF SERVICE**

I, TIMOTHY W. PORTER, hereby certify that I have this day caused a true and correct copy of the above and foregoing instrument to be electronically delivered to all known counsel of record.

This, the 9<sup>th</sup> day of July, 2009.

TIMOTHY W. PORTER

#### IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN MCGILBERRY

PLAINTIFF

 $\mathbf{V}$ .

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION; ET AL.

**DEFENDANTS** 

# PLAINTIFF'S SECOND SUPPLEMENTAL DESIGNATION OF EXPERT WITNESSES

COMES NOW the Plaintiff, John McGilberry, by and through the undersigned counsel, and files Plaintiff's Second Supplemental Designation of Expert Witnesses, and hereby designates the following individuals as persons who may be called as witnesses to testify by live testimony or by deposition at the trial of this matter as follows:

1. Obie M. McNair, MD
Central Mississippi Health Services
1134 Winter Street
Jackson, MS 39204
(601) 948-5572

Dr. McNair has attained a board certification in the field of internal medicine and pulmonology. Dr. McNair's curriculum vitae will be supplemented. Dr. McNair may testify as to his various areas of expertise.

Dr. McNair may testify as to all matters pertaining to his review of Mr. McGilberry's medical records, x-rays, expert reports and supplemental expert reports; the diagnostic criteria used to diagnose silica related diseases; Mr. McGilberry's medical condition; his opinion as to whether Mr. McGilberry suffers from silica related disease and the basis of such opinions; and his prognosis with regard to Mr. McGilberry's medical condition. He may also provide testimony regarding general medical issues with an emphasis on the respiratory system and the effect that silica has on human health generally and the effect that silica has had on Mr. McGilberry in particular.

2. David Halinski, MD 2100 Highway 61 North Vicksburg, MS 39183 (601) 636-9064

Dr. Halinski has attained a board certification in the field of internal medicine, critical care medicine, and pulmonology. Dr. Halinski's curriculum vitae is attached

hereto as Exhibit "A." Dr. Halinski may testify as to his various areas of expertise.

Dr. Halinski may testify as to all matters pertaining to his review of Mr. McGilberry's medical records, x-rays, expert reports and supplemental expert reports; the diagnostic criteria used to diagnose silica related diseases; Mr. McGilberry's medical condition; his opinion as to whether Mr. McGilberry suffers from silica related disease and the basis of such opinions; and his prognosis with regard to Mr. McGilberry's medical condition. He may also provide testimony regarding general medical issues with an emphasis on the respiratory system and the effect that silica has on human health generally and the effect that silica has had on Mr. McGilberry in particular.

3. Steven Haber, MD
Texas Occupational Medicine
9225 Katy Freeway, Suite 404
Houston, TX 77024
(713) 932-8664

CV attached as Exhibit "B."

The nature of the disease of silicosis.

The physiology of the lung, the heart, the macrophage, the cilia, and other relevant body parts.

State of the Art regarding silicosis.

The Plaintiff's condition, prognosis, etc.

The diagnosis/prognosis of silicosis.

Medical literature on silicosis.

Medical technology.

Cost of Medical Care.

Course of disease in silicotics.

Treatment methods of silicosis.

Respiratory failure.

Care for persons in respiratory decline and failure.

Environmental and occupational health issues on exposure, latency, dose/response, etc.

Factors which effect progression.

#### **IMPRESSIONS & OPINIONS**

Silicosis is a progressive disorder, which has no effective treatment or cure.

Dr. Haber may express other opinions on environmental and/or occupational issues particular to this case such as dose-response, latency, disease levels in other coworkers, etc.

Dr. Haber may express opinions of a general medicine nature. He may address causation of silicosis and/or the occurrence of silicosis in the many silicotics who he has examined and taken occupational histories from. He may also express opinions on the relationship of cancer and autoimmune diseases to the disease of silicosis. He may discuss the general trends of under protection, overexposure, and the occurrence of disease. He may discuss cases of silicosis, which have occurred in persons who wore air supplied equipment.

#### SCIENTIFIC KNOWLEDGE

Medical Literature.

Experience in diagnosing and treating occupational disease.

Review of records.

Review of diagnostic testing.

Histories of other sandblasters.

Mr. McGilberry's sandblasting history.

Review of x-rays, etc.

4. Kenneth E. Duff, Jr., MD
Hattiesburg Radiology Group, PLLC
5000 West 4<sup>th</sup> Street
Hattiesburg, MS 39402-1077
(601) 264-2121

Dr. Duff has attained his board certification through the American Board of Radiology with a Specialty Certification in Diagnostic Radiology and is expected to testify in the field of his expertise to a reasonable degree of medical certainty. Dr. Duff's curriculum vitae is attached hereto as Exhibit "C."

Dr. Duff may testify as to all matters pertaining to his review of Plaintiff's x-rays and may testify as to his medical findings. It is expected that Dr. Duff may testify to a reasonable degree of medical certainty, that the findings on Mr. McGilberry's x-rays are consistent for silicosis, and consistent with that clinical diagnosis. Dr. Duff's report will be supplemented. Dr. Duff may provide a diagnosis of silicosis or silica related injury in this case.

Dr. Duff may render further opinions in rebuttal to opinion testimony offered by the Defendant at the trial of this matter.

5. Dr. Jerrold Abraham
Associate Professor and Director of
Environmental and Occupational Pathology
State University of New York
Department of Pathology
750 East Adams Street
Syracuse, NY 13210
(315) 464-5540

CV Attached as Exhibit "D"

#### SUBJECT MATTER

All subjects covered in prior reports in related cases, depositions in related cases, and trial testimony given in related cases. Among the many subjects previously addressed by this witness, the following is a good faith listing of subject matter:

Medical questions

Pathology

Chemistry

Toxicology

Medical literature

Medical state of the art

Scientific Reliability

#### **IMPRESSIONS & OPINIONS**

Presence of silicosis in John McGilberry's lungs

Silicosis and Silica-Related Lung Cancer

Extent of disease

Quantitative and qualitative analysis of dust in lung

Probability of progression

Prognosis

#### SCIENTIFIC KNOWLEDGE

Review of lung sample

Review of medical records

Amount of silica in lung

Type of silicosis in lung

Chemical and material composition of materials in plaintiffs' lung

Review of pathology of other workers

Background and comparatives exposures

RESPECTFULLY SUBMITTED, this the

day of December, 2009.

JOHN MCGILBERRY, PLAINTIFF

R. ALLEN SMITH, JR.

# OF COUNSEL:

Timothy W. Porter – MSB No. 9687
Patrick C. Malouf – MSB No. 9702
John T. Givens – MSB No. 101561
PORTER & MALOUF, P.A.
Post Office Box 12768
Jackson, MS 39236
Telephone: (601) 957-1173

Telephone: (601) 957-1173 Facsimile: (601) 957-7366

R. Allen Smith, Jr. – MSB No. 99984 THE SMITH LAW FIRM, P.L.L.C 681 Towne Center Blvd., Suite B Ridgeland, MS 39157 Telephone: (601) 952 1422

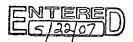
Telephone: (601) 952-1422 Facsimile: (601) 952-1426

### **CERTIFICATE OF SERVICE**

I, R. Allen Smith, Jr., do hereby certify that I have this day caused a true and correct copy of the above and foregoing *Plaintiff's Second Supplemental Designation of Expert Witnesses* to be electronically delivered to all counsel of record in the above matter.

THIS, the 2 day of December, 2009.

R. ALLEM SM



#### IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN MCGILBERRY

**PLAINTIFF** 

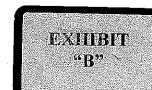
V.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION; CLARK SAND COMPANY, INC.; SOUTHERN SILICA OF LOUISIANA: DEPENDABLE ABRASIVES, INC.; PRECISION PACKAGING, INC.: QUICKRETE MATERIALS, INC.: ASH GROVE CEMENT COMPANY: GREEN BROTHERS GRAVEL COMPANY; BLAIN SAND & GRAVEL, INC.; THE MORIE COMPANY; PEARL SANDS, INC.: PEARL SPECIALTY SANDS, INC.; LONE STAR INDUSTRIES: CUSTOM AGGREGATES AND GRINDING, INC.; SPECIALTY SAND CO.; HANSON AGGREGATES CENTRAL, INC., f/k/a PIONEER CONCRETE OF TEXAS, INC., f/ka PIONEER SOUTH CENTRAL **HUMBLE SAND & GRAVEL, INC.**; PULMOSAN SAFETY EQUIPMENT CORP.: SCOTT TECHNOLOGIES, INC.; PARMELEE INDUSTRIES, INC., d/b/a CHICAGO EYE SHIELD COMPANY (CESCO); E. D. BULLARD COMPANY; AMERICAN OPTICAL CORPORATION: EMPIRE ABRASIVE EQUIPMENT CORPORATION; MINE SAFETY APPLIANCES COMPANY; CLEMCO INDUSTRIES, INC.; SCHMIDT MANUFACTURING, INC.; BOB SCHMIDT, INC.; PAULI & GRIFFIN COMPANY: KEY HOUSTON, a Division of JACKSONVILLE SHIPYARDS, INC., KELCO SALES & ENGINEERING COMPANY; MISSISSIPPI VALLEY SILICA CO., INC.; UNIMIN CORPORATION: and JOHN & JANE DOES 1 - 500, ET AL.

RECEIVED 4 2007

AUG 27 2007 JRCUIT CLERK J.A.H. JONES COUNTY MISS



#### **COMPLAINT**

COMES NOW, John McGilberry, hereinafter referred to as "Plaintiff," by and through undersigned counsel, and files this his Complaint against these Defendants and would show the following to this Honorable Court in support thereof:

#### I. HISTORY OF THE CASE

The Plaintiff's Complaint was originally filed in a multi-plaintiff case styled George Buffington, et al. v. Pulmosan Safety Equipment, et al., civil action number 2002-194-CV6, in the Circuit Court of Jones County, Mississippi, Second Judicial District. On or about May 15, 2006, an Order was entered by the Circuit Court of Jones, Mississippi, Second Judicial District, pursuant to Canadian National v. Smith, et al., 926 So.2d 839 (Miss. 2006) whereby the Plaintiff's Complaint was dismissed with a one (1) year tolling agreement to re-file the Plaintiff's cause of action in a proper venue according to new law in Mississippi. This case is being filed within the one (1) year time frame allowed by Canadian National v. Smith, et al.

#### II. <u>PLAINT</u>IFF

Plaintiff is a resident of Ellisville, Mississippi. The Plaintiff's alleged injury is lung disease, silicosis, caused by exposure to respirable crystalline silica while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989.

#### III. DEFENDANTS

PANGBORN CORPORATION is a foreign corporation that has done business in the State of Mississippi. This Defendant may be served with process by serving this Defendant's home office address or by serving process on, Thomas A. Briere, 529 Pangborn Boulevard; P. O. Box 380, Hagerstown, Maryland 21740 or 580 Pangborn Boulevard Hagerstown, Maryland 31740. This is a Defendant that manufactured, marketed, distributed and sold defective personal respiratory equipment that was used around silica. Plaintiff wore defective personal respiratory products manufactured by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex. North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective personal respiratory products manufactured by this Defendant, and referenced above were sold under the brand name Pangborn, and is a non-air fed hood used and marketed for sandblasting.

CLARK SAND COMPANY, INC. is a foreign corporation that has done and/or is doing business in the State of Mississippi. This Defendant may be served with process by serving this Defendant's home office address, c/o John Richard Clark, No. Enrmann St., Pensacola, Florida 32507. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant and referenced above was sold under the brand name Clark Sand.

SOUTHERN SILICA OF LOUISIANA is a corporation organized and existing under and by virtue of the laws of the State of Louisiana and doing business in the State of Mississippi. Said defendant, therefore, may be served with summons by serving the registered agent: Marvin David Bryant, 6717 Oak Cluster Drive, Greenwell Springs, LA 70739, by process server. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other

manufacturing processes. Plaintiff used defective and toxic silica sand manufactured and supplied by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989.

DEPENDABLE ABRASIVES, INC. is a Mississippi corporation and may be served with process and summons to its registered agent: James Dickerson, 13066 Highway 67, Suite H, Woodmarket, MS 39532, c/o Secretary of State of MS, 700 North St., Jackson, MS 39202 via certified mail. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant and referenced above was sold under the brand name Dependable Abrasives and/or Quikblast.

PRECISION PACKAGING, INC., is a foreign corporation doing business and with a principal office in Mississippi. This Defendant can be served with process by serving its registered agent, CT Corporation System at 631 Lakeland East Drive, Flowood, Mississippi 39232. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant and referenced above was sold under the brand name Quikrete.

QUICKRETE MATERIALS, INC. is a Mississippi corporation. This Defendant may be served with process by serving its registered agent, C.T. Corporation System, 118 North Congress Street, Jackson,

Mississippi 39205. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant and referenced above was sold under the brand name Quikrete..

ASH GROVE CEMENT COMPANY individually and d/b/a Quikrete of Jackson d/b/a Quikrete d/b/a Quikrete Material Company d/b/a Precision Packaging of Jackson a/k/a Materials Packing Corp. a/ka/ Precision Packaging. Inc., is a corporation doing business in the state of Mississippi. This Defendant may be served with process by serving its registered agent, John Ross III, 8900 Indian Creek Parkway, Suite 600. Overland Park, Kansas 66210 or its home office, 11011 Cody, P.O. Box 25900, Overland Park, Kansas 66225. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant and referenced above was sold under the brand name Ouikrete.

GREEN BROTHERS GRAVEL COMPANY is a Mississippi corporation. This Defendant may be served with process by serving its agent, Heyward Carter Green, 1900 Dunbarton Street, Suite J, P.O. Box 13218, Jackson, Mississippi 39236. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel

Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989.

BLAIN SAND & GRAVEL, INC. is a Mississippi corporation. This Defendant may be served with process and summons by serving its agent W. W. Blain, Jr., 98 Pearce Road, Mount Olive, Mississippi 39119. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989.

THE MORIE COMPANY is a foreign corporation doing business in Mississippi. This Defendant may be served with process by serving it at its home office address, c/o Corporate Company, 60 Commerce Street, Montgomery, Alabama 36104. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989.

PEARL SANDS, INC. is a Louisiana Corporation that conducted business in the state of Mississippi and may be served with process through its registered agent, to wit: R.W. Fisk 1661 Canal Street, New Orleans, Louisiana 70112, via certified mail. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi

from 1985 to 1989. The defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant and referenced above was sold under the brand name Pearl Sands.

PEARL SPECIALTY SANDS, INC., is a Louisiana Corporation that conducted business in the state of Mississippi and may be served with process through its registered agent, to wit: R.W. Fisk 1661 Canal Street, New Orleans, Louisiana 70112, via certified mail. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant and referenced above was sold under the brand name Pearl Specialty Sands.

LONE STAR INDUSTRIES is a corporation organized and existing under and by virtue of the laws of the State of Connecticut. Said defendant, therefore, may be served with summons by serving Lone Star Industries, Inc., c/o C. T. Corporation System (agent for service), 631 Lakeland Drive East, Flowood, Mississippi, 39208. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant and referenced above was sold under the brand name Lone Star.

CUSTOM AGGREGATES AND GRINDING, INC., is a foreign corporation that has done business in the State of Mississippi. This Defendant may be served with process by serving its agent, A. Wayne Buras, 1000 Highway 190, Suite 103, Covington, Louisiana 70433. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to

defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989.

SPECIALTY SAND COMPANY, is a corporation organized and existing under and by virtues of the State of Texas and doing business in the State of Texas and doing business in the State of Mississippi. However, said defendant does not maintain either a regular place of business or an agent for service of process in this state. Said defendant therefore, may be served with citation by serving the home office of Defendant, to wit: SPECIALTY SAND COMPANY, 7500 San Felipe Street, Suite 1001, Houston, TX 77063, via certified mail. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant and referenced above was sold under the brand name Specialty.

HANSON AGGREGATES CENTRAL, INC., f/k/a PIONEER CONCRETE OF TEXAS, INC., f/ka PIONEER SOUTH CENTRAL, INC. is a foreign corporation that has done business in the State of Mississippi. This Defendant may be served with process by serving this Defendant's home office address, 1333 Campus Parkway, c/o Hanson Building, Materials America, Neptune, New Jersey 07753. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant and

referenced above was sold under the brand name Pioneer and/or Texblast.

HUMBLE SAND & GRAVEL, INC. is foreign corporation that has done business in the State of Mississippi. This Defendant may be served with process by serving its President, Ron Humble, 800 South College, Picher, Oklahoma 74360. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant and referenced above was sold under the brand name Humble Sand & Gravel.

PULMOSAN SAFETY EOUIPMENT CORPORATION is corporation organized and existing under and by virtue of the laws of the State of New York and doing business in the State of Mississippi. Said defendant, therefore, may be served with process by serving its home office address, c/o Howard M. Weiss, President, 150 East 69th Street, #17R, New York, New York 10021-5704, by process server. This is a Defendant that manufactured, marketed, distributed and sold defective personal respiratory equipment that was used around silica. Plaintiff wore defective personal respiratory products manufactured by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective personal respiratory products manufactured by this Defendant and referenced above were sold under the brand name Pulmosan, and is a non-air fed hood used and marketed for sandblasting.

SCOTT TECHNOLOGIES, INC., is a corporation organized and existing under and by virtue of the laws of the State of Delaware, and may be served with process and summons by serving its agent, C. T. Corporation System, 631 Lakeland East Drive, Flowood, MS 39232. This is a Defendant that manufactured, marketed, distributed and sold defective personal respiratory equipment that was used around silica.

Plaintiff wore defective personal respiratory products manufactured by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective personal respiratory products manufactured by this Defendant and referenced above were sold under the brand name Scott and were a respirator, dust mask, and non-airfed hood.

PARMELEE INDUSTRIES, INC., d/b/2 CHICAGO EYE SHIELD COMPANY (CESCO), is a foreign corporation that has done business in the State of Mississippi. This Defendant may be served with process by serving this Defendant's home office address, P. O. Box 15965, Lenexa, Kansas 66215. This is a Defendant that manufactured. marketed, distributed and sold defective personal respiratory equipment that was used around silica. Plaintiff wore defective personal respiratory products manufactured by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective personal respiratory products manufactured by this Defendant and referenced above were sold under the brand name CESCO and were non-air fed hood and air fed hood used and marketed for sandblasting.

E. D. BULLARD COMPANY is a corporation organized and existing under and by virtue of the laws of the State of California and doing business in the State of Mississippi. Said defendant, therefore, may be served with citation by serving the Registered Agent, to wit: The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801, via certified mail. This is a Defendant that manufactured, marketed, distributed and sold defective personal respiratory equipment that was used around silica. Plaintiff wore defective personal respiratory products manufactured by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective personal respiratory products manufactured by this Defendant and referenced above were sold under the brand name Bullard and is an air fed hood used and marketed for sandblasting.

AMERICAN OPTICAL CORPORATION is a foreign corporation that has done business in the State of Mississippi. This Defendant may be served with process by serving its agent, c/o Secretary of State, Corporations Division, 30 Trinity Street, Hartford, Connecticut 06106. This is a Defendant that manufactured, marketed, distributed and sold defective personal respiratory equipment that was used around silica. Plaintiff wore defective personal respiratory products manufactured by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective personal respiratory products manufactured by this Defendant and referenced above were sold under the brand name American Optical and is a dust mask and respirator used and marketed for sandblasting.

**EMPIRE** ABRASIVE EQUIPMENT CORPORATION corporation organized and existing under and by virtue of the laws of the State of Pennsylvania and maintaining its principal place of business in Pennsylvania. However, said defendant does not maintain either a regular place of business. Said defendant, therefore, may be served with citation by serving with process the Summons and copy of the Complaint to the Defendant's registered agent, to wit: Richard Woodfield c/o McKissock & Hoffman, 1700 Market Street, Suite 3000, Philadelphia, Pennsylvania, 19103, via certified mail. This is a Defendant that manufactured, marketed, distributed and sold defective personal respiratory equipment that was used around silica. Plaintiff wore defective personal respiratory products manufactured by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective personal respiratory products manufactured by this Defendant and referenced above were sold under the brand name Empire, and is a non-air fed hood and sandblasting pot used and marketed for sandblasting.

MINE SAFETY APPLIANCES COMPANY is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania and doing business in the State of Mississippi. However, said defendant does not maintain either a regular place of business or an agent for service of process in this state. Said defendant, therefore, may be served with citation by serving the current Commanding Executive Officer of the Defendant, to wit: Thomas B. Hottop, CEO, 121 Gamma Dr., RIDC Industrial Park, Pittsburgh, Pennsylvania

13528, via certified mail. This is a Defendant that manufactured, marketed, distributed and sold defective personal respiratory equipment that was used around silica. Plaintiff wore defective personal respiratory products manufactured by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989.

CLEMCO INDUSTRIES, INC. is a corporation organized and existing under and by virtue of the laws of the State of Nevada and doing business in the State of Mississippi. Said defendant, therefore, may be served with citation by serving the a copy of the Complaint and Summons to its registered agent for process, to wit: Mark W. Cleary, 445 Bush Street, 9th Floor, San Francisco, California, via certified mail. This is a Defendant that manufactured, marketed, distributed and sold defective sandblasting equipment that was used around silica, including sandblasting. Plaintiff used or worked around defective sandblasting or silica related equipment manufactured by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective sandblasting or silica related products manufactured, marketed, distributed or sold were sold under the brand name Clemco and is a sandblasting pot used and marketed for sandblasting.

SCHMIDT MANUFACTURING, INC. is a foreign corporation doing business in the State of Mississippi. This Defendant may be served with process by serving its registered agent, 75 Technology, Lowell, Massachusetts 01851. This is a Defendant that manufactured, marketed, distributed and sold defective sandblasting equipment that was used around silica, including sandblasting. Plaintiff used or worked around defective sandblasting or silica related equipment manufactured by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective sandblasting or silica related products manufactured, marketed, distributed or sold were sold under the brand name Schmidt and is a sandblasting pot used and marketed for sandblasting.

BOB SCHMIDT, INC. is a foreign corporation that has done business in the State of Mississippi. This Defendant may be served with process by serving its registered agent, C.T. Corporation System, 631 Lakeland East Drive, Flowood, Mississippi 39208. This is a Defendant that manufactured, marketed, distributed and sold defective sandblasting equipment that was used around silica, including sandblasting. Plaintiff used or worked around defective sandblasting or silica related equipment manufactured by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective sandblasting or silica related products manufactured, marketed, distributed or sold were sold under the brand name Schmidt and is a sandblasting pot used and marketed for sandblasting.

PAULI & GRIFFIN COMPANY is a foreign corporation that has done business in the State of Mississippi. This Defendant may be served with process by serving its registered agent, C. T. Corporation System, 350 North St. Paul Street, Dallas, Texas 75201 or 907 Cotting Lane Vacaville, California 95688. This is a Defendant that manufactured, marketed, distributed and sold defective sandblasting equipment that was used around silica, including sandblasting. Plaintiff used or worked around defective sandblasting or silica related equipment manufactured by this Defendant while working at Pittman Construction in Ellisville. Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective sandblasting or silica related products manufactured, marketed, distributed or sold were sold under the brand name Pauli & Griffin and is a sandblasting pot used and marketed for sandblasting.

KEY HOUSTON a Division of JACKSONVILLE SHIPYARDS, INC., is a foreign corporation doing business in the State of Mississippi. This Defendant may be served with process by serving its registered agent, C. T. Corporation System, 631 Lakeland East Drive, Flowood, Mississippi 39208 or R. Stephen Ferrell, Giessel, Barker & Lyman, 909 Fannin Street, Suite 2700, Houston, Texas 77010-1063. This is a Defendant that manufactured, marketed, distributed and sold defective sandblasting equipment that was used around silica, including sandblasting. Plaintiff used or worked around defective sandblasting or silica related equipment manufactured by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974;

while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective sandblasting or silica related products manufactured, marketed, distributed or sold were sold under the brand name Pauli & Griffin and is a sandblasting pot used and marketed for sandblasting.

KELCO SALES & ENGINEERING COMPANY, a division of POLLEY, INC., is a foreign corporation doing business in the State of Mississippi. This Defendant may be served with process by serving this Defendant's home office address, 11936 East Front Street, Norwalk, California 90650. This is a Defendant that manufactured, marketed, distributed and sold defective sandblasting equipment that was used around silica, including sandblasting. Plaintiff used or worked around defective sandblasting or silica related equipment manufactured by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989.

MISSISSIPPI VALLEY SILICA CO., INC. is a foreign corporation with its principal office in Mississippi. This Defendant may be served with process by serving its registered agent, The Corporation Trust Company at Corporate Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. This is a Defendant that manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex. North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989. The defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant and referenced above was sold under the brand name Valco.

UNIMIN CORPORATION is a corporation organized and existing under and by virtue of the laws of the State of . Said defendant, therefore, may be served with summons by serving Unimin Corporation, c/o CT Corporation System, 645 Lakeland Drive East, Suite 101, Flowood, Mississippi 39232. This is a Defendant that

manufactured, marketed, distributed and sold silica sand used in sandblasting and other manufacturing processes, including foundry work, construction, etc. Plaintiff was exposed to defective and toxic silica sand manufactured, marketed, distributed or sold by this Defendant while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989.

### IV. JURISDICTION

This Court has subject matter jurisdiction pursuant to Article 6 § 156 Mississippi Constitution 1890 and/or § 9-7-81 Mississippi Code 1972. Plaintiff claims herein are brought solely under Mississippi law. Plaintiff affirmatively states Plaintiff did not bring any claims for relief pursuant to any federal laws, statutes, or regulations. Consequently, this Court has jurisdiction and there is no arguable reason for the assertion of federal jurisdiction on the basis of a "federal question." Furthermore, the assertion by any Defendant of federal diversity jurisdiction would be improper in that Plaintiff is an adult resident citizen of the State of Mississippi and at least one of the Defendants is a Mississippi corporation in good standing. Consequently, "complete diversity" does not exist as is required for the assertion of federal diversity jurisdiction. In addition, upon information and belief, not all Defendants will agree or consent to removal of the referenced action to federal court and, therefore, any removal of this case is per se improper. Plaintiff formally puts all Defendants on notice that Plaintiff will seek all appropriate relief from any Defendant who removes this action without obtaining agreement or consent of all Defendants.

This Court has jurisdiction over all Defendants because they have done business in Mississippi, committed a tort in Mississippi and have had continuous contacts with

Mississippi. Specifically, they have all sold, designed, manufactured, or marketed an array of defective silica related products in the State of Mississippi. Therefore, all Defendants are amenable to service by a Mississippi court. In addition, the damages for which Plaintiff brings suit exceed the minimal jurisdictional limits of the Mississippi State Court.

### V. VENUE

Venue is proper in Jones County, Mississippi. See Sec. 11-11-3 Mississippi Code 1972. Specifically, this County is one in which the Plaintiff was exposed to or injured by silica and thus, this county is a location where an alleged act or omission occurred or where an event that caused the injury occurred. Alternatively, venue is proper in this county as it is a county where Plaintiff purchased a defective product, a Defendant resides or has its principal place of business, or where the Plaintiff resides.

### VI. FACTS

During all or part of the Plaintiff's working life, the Plaintiff worked with silica containing products, products that produce silica or products that cause the production of silica. While working with these products, Plaintiff wore devices and products that were marketed as "respiratory protection," allegedly designed to protect the Plaintiff and other workers from exposure to harmful airborne toxins, like silica. Additionally, Plaintiff worked with equipment that was represented to prevent or reduce their exposure to airborne toxins, like silica.

Plaintiff worked in various industries and trades that are known by the Defendants to result in increased exposures to silica. These trades may include, but are not limited to,

abrasive blasting, construction, ship yards, and other heavy industries throughout the United States. Plaintiff's jobs and tasks required Plaintiff to engage in activities known by the Defendants to produce high levels of respirable silica or work in environments that contained high levels of respirable silica. These tasks may have included, but are not limited to, abrasive blasting, and raw materials handling. Plaintiff's jobs caused him to be exposed to silica from silica containing products, products that produce silica or products that cause the release of silica into the environment.

In addition to the products listed above, several Defendants mined manufactured, processed, packaged, sold and/or distributed materials containing silica sand. The Defendants mined the material, usually sand, through a dredging system and then pump the material in a liquid slurry to a processing facility. There, the material is screened and filtered to remove impurities. The sand is then dried and re-screened for size prior to packaging or sale to distributors or users of this material.

As a result, Plaintiff was exposed to silica from the use of these products or from working in close proximity to these products. Plaintiff's exposure to silica has resulted in serious, permanent and irreversible damage to the Plaintiff. As a result of the inhalation of silica, Plaintiff's lungs and body were injured. Plaintiff's injuries resulted from repeated exposure to the products. The nature of the injuries prevents detection, until years after the initial exposures. This latent nature of the injuries and diseases prevents individuals such as the Plaintiff from discovering Plaintiff's injuries and/or illness for many years. The illness has caused great disability and degraded Plaintiff's quality of life. Plaintiff's conditions are incurable and progressive. Ultimately, Plaintiff faces respiratory failure and a premature death. In addition, Plaintiff has a fear of cancer

resulting from Plaintiff's exposure to silica related products.

The Plaintiff was injured and damaged through the Defendants' manufacture, mining, sale and supplying of silica-containing products, the Defendants' manufacture, sale, rental and supply of defective respiratory equipment (respirators, non-air fed hoods, and air-fed hoods) used by the Plaintiff, and the Defendants' manufacture, sale, rental and supply of equipment (including, but not limited to, compressors, sand pots, sand hoppers, hoses, couplings, fittings, nozzles and guns) used by the Plaintiff and other devices manufactured, sold, rented and supplied by the Defendants' that were used by the Plaintiff.

Additionally, the Defendants sold non-air supplied hoods or other non-air supplied equipment that was purportedly adequate for operations with silica or which Defendants knew were being used for such operations without warnings or with cautions, which were inadequate for the dangers involved in this operation. Further, Defendants sold masks and respirators, which were wholly inadequate and not approved for blasting operations or other operations with silica-containing products. These masks and respirators would not protect the workers from the dangerous silica and added to, and increased the risk of, exposure to these dangerous products. Even when air-supplied hoods and respirators were used, the Defendants sold non-approved air-supplied hoods or sold such hoods without adequate, intelligible and understandable warnings and instructions, which would ensure that the users would be under protected. These hoods were defective by reason of their design, marketing, and their foreseeable use or misuse. Thus, because of the negligence, design defects, and marketing defects (including using air fed hoods), the users were breathing contaminated air which contained dangerous

levels of free silica and other toxic products of abrasive blasting, when used in their usual, customary, and expected way.

Additionally, some Defendants designed, manufactured and marketed after market parts intended to be sold and used as component parts with a variety of different air fed hoods. By selling these components these Defendants knew or should have known that the NIOSH approval on the air fed hoods would be voided and the safety of the products compromised. These after market parts were defective at the time they were introduced into the stream of commerce and such defect was a producing cause of Plaintiff's injuries and damages.

At no time prior to diagnosis did the Plaintiff know, or should have known, the nature of his injury, the cause of the injury or premature disability. Defendants were aware of the dangers of silica and failed to convey such dangers to Plaintiff or those similar to Plaintiff who has knowledge common to the community. Plaintiff discovered the disease or injury within the applicable period of limitations. Plaintiff timely brings this suit.

### VII.

# CAUSES OF ACTION AND THEORIES OF RECOVERY COUNT ONE – STRICT LIABILITY AND PRODUCT DEFECTS

The Defendants' products were defectively designed for their known and/or intended use. The products were unreasonably dangerous for their known and/or intended use. In addition, the defect or defects were present at the time the products in question were manufactured, fabricated and/or distributed. The defect or defects made the products unreasonably dangerous to those persons, such as Plaintiff, who could reasonably be expected to use and rely upon such products and those individuals working

in the area or known zone of danger created by the products. As a result, the defect or defects were a producing cause of Plaintiff's injuries and damages. Therefore, the Defendants are liable under the Doctrine of Strict Liability in Tort.

The Defendants failed to give adequate and proper warnings with respect to the manner in which these products should be marketed, distributed and used. The Defendants knew or should have known that their products would be used in jobs, trades or industries that would expose individuals, such as the Plaintiff, to dangerous levels of respirable silica and therefore these Defendants should have warned persons like Plaintiff of the hazards and risks associated with the use of their product, including the danger of inhalation of respirable free silica. The Defendants failed to provide any such warnings or instructions regarding the risks associated with use of their products and the failure to provide such warnings or instructions constitute a marketing defect, which was a producing cause of Plaintiff's injuries and damages.

### **COUNT TWO - NEGLIGENCE**

The Defendants were negligent including, but not limited to, the following particulars, each of which was a proximate cause of Plaintiff's injuries and damages:

- In failing to adequately warn Plaintiff of the hazards associated with the inhalation of silica and silica dust while using their products;
- In failing to properly test their products to determine adequacy and effectiveness
   or safety measures, if any, prior to releasing these products for consumer use;
- In failing to properly test their products to determine the levels of silica produced during the normal and/or intended use of the products;

- In failing to properly test their products to determine the zone of danger to coworkers, and other individuals working near users of their products;
- In failing to inform ultimate users, such as Plaintiff as to the safe and proper methods of handling and using their products;
- In failing to remove their products from the market when the Defendants knew or should have known their products were defective;
- In failing to instruct the ultimate users, such as Plaintiff as to the methods for reducing their exposure to silica, while using the products;
- In failing to inform the public in general and the Plaintiff in particular of the known dangers of breathing silica, even at levels below the government regulated levels;
- In failing to inform the users of their products of the dangers to co-workers, other
   workers in the area and individuals in the known zone of danger of the products;
- In failing to advise users how to prevent or reduce exposure to silica;
- In failing to warn that about the use of appropriate respiratory protection as a means of preventing or minimizing exposures to airborne free silica; and
- In designing, manufacturing, processing, packaging and/or distributing the products used by Plaintiff or in close proximity to the Plaintiff.

Each and all of these acts and omissions, taken singularly or in combination, were a proximate cause of the injuries and damages sustained by Plaintiff.

### **COUNT THREE - BREACH OF WARRANTEES**

The Defendants designed, manufactured, assembled, fabricated and/or distributed the products in question in a defective condition and therefore breached an implied

warranty of fitness and an implied warranty of merchantability, in addition to various express warranties. The Defendants, as sellers, were merchants with respect to the products which they sold. In addition, these products were not fit for the ordinary purposes for which such goods are used. The Defendants also had reason to know of the particular purpose for which these products would be used, as well as the knowledge that persons such as Plaintiff would rely on the seller's skill to furnish suitable products.

Therefore, the Defendants have breached the implied warranty of merchantability as well as the implied warranty of fitness for a particular purpose, in addition to various express warranties. Such breach or breaches of implied and express warranties by the Defendants was a proximate cause of the injuries and damages sustained by Plaintiff.

### COUNT FOUR - CIVIL CONSPIRACY

All of the allegations contained in the previous paragraphs are re-alleged herein. Plaintiff further alleges that Defendants and/or their predecessors-in-interest knowingly agreed, contrived, combined, confederated and conspired among themselves to cause Plaintiff's injuries, disease, and illnesses by exposing Plaintiff to harmful and dangerous silica containing products, and/or defective equipment, and/or respiratory, protective wear. Defendants further knowingly agreed, contrived, confederated and conspired to deprive Plaintiff of the opportunity of informed free choice as to whether to use said products or to expose Plaintiff to said dangers. Defendants committed the above described wrongs by willfully misrepresenting and suppressing the truth as to the risks and dangers associated with the use of and exposure to Defendants' silica containing products, and/or equipment, and/or respiratory and protective wear, requiring or calling for the use of silica and/or silica containing particles.

In furtherance of said conspiracies, Defendants performed the following overt acts:

- A. For many decades, Defendants, individually, jointly, and in conspiracy with each other, have been in possession of medical and scientific data, literature and test reports which clearly indicated that inhalation of silica dust resulting from ordinary and foreseeable use of the above described products were unreasonable dangerous, hazardous, deleterious to human health, carcinogenic, and potentially deadly;
- B. Despite the medical and scientific data, literature, and test reports possessed by and available to Defendants, Defendants individually, jointly, and in conspiracy with each other, fraudulently, willfully and maliciously:
  - 1. withheld, concealed and suppressed said medical information regarding the risks of silicosis, cancer, and other silicosis-related illnesses from Plaintiffs who were using and being exposed to Defendants' products (as set out in the "Facts" section of this pleading)"
  - caused to be released, published and disseminated medical and scientific
    data, literature, and test reports containing information and statements
    regarding the risks of silicosis, cancer, and other silicosis-related illnesses,
    which Defendants knew were incorrect, incomplete, outdated, and
    misleading.
  - C. By these false and fraudulent representations, omissions, and concealments, Defendants intended to induce the Plaintiff to rely upon said false and fraudulent representations, omissions and concealments, and to continue to expose themselves to the dangers inherent in the use of and exposure to Defendants' products.

Plaintiff reasonably and in good faith relied upon the false and fraudulent representations, omissions, and concealments made by Defendants regarding the nature of their products. As a direct and proximate result of Plaintiff's reliance, Plaintiff has sustained damages including injuries, illnesses and disabilities and has been deprived of the opportunity of informed free choice in connection with the use of exposure to Defendants' silica containing products, and/or equipment, and/or respiratory and protective wear, requiring or calling for the use of silica and/or silica containing particles.

Specifically, at the end of 1935, the Air Industrial Hygiene Foundation ("IHF")

was incorporated and included many of the Defendants throughout its existence. IHF internally acknowledged it was a "creature of industry and is the one institution upon which employers can rely for a sympathetic appreciation of their viewpoint." Nonetheless, IHF outwardly presented itself as an unbiased group attempting to improve work conditions and began trying to shape occupational lung research and technical debate. IHF suggested a threshold safe exposure limit of 5 millions silica particles per cubic foot (mppcf) of air and presented it as a scientific and accurate standard. However, this was not true. In fact, IHF itself acknowledged that the 5-mppcf standard lacked entirely any published supporting data and was developed because it was about as low as then-modern engineering methods could achieve. Despite it maintaining the appearance of an unbiased group attempting to improve worker conditions, IHF was, in fact, promulgating an arbitrary, unscientific standard thereby attempting to avoid liability and promote a false sense of security.

In discussing the level of necessary exposure, IHF acknowledged that even industrial hygienists were lulled "into false security by reliance on the protection given by the strict adherence to these permissible limits." But rather then inform workers of the potential dangers, IHF members suggested that companies conduct "periodic physical evaluations" as a "biological check" for "concentrations of hazardous substances which had been sanctioned as being safe". They suggested that the very hazards of the job were effective devices for screening out workers whose physique left them susceptible to illness. They called this process "industrial selection" and endorsed the idea that those who are vulnerable to the exposure be weeded out by natural selection. This Darwinian/guinea pig approach was endorsed by the IHF and was never made public to

the workers whom they represented they were trying to protect.

This effort to withhold the dangers of silica was acknowledged by the Bureau of Mines "Review of Literature" in 1950 in which it stated that silicosis was a widespread hazard that was probably increasing, that the standards were questionable and that there was an "apparently concerted effort to hide" the silicosis problem rather then publicize it to the workers and the general public. Despite IHF's knowledge of the dangers of silicosis, the knowledge of its representations and omissions and the knowledge of lack of scientific backing for its silica standards, the standard remained virtually untouched from 1935 through the mid-1960s. During this period, workers continued to get sick and industry believed it was safe from liability.

Eventually a broader discussion about silicosis emerged. In February of 1975 several Defendants gathered together in Houston, Texas and to form the Silica Safety Association ("SSA"). The SSA publicly stated that it was formed to investigate the potential health hazards of silicosis and recommend adequate protective measures. Clearly, SSA stated it was formed for safety as evidenced by name. Yet, the SSA's primary purpose was to make sure that the Occupational Safety and Health Administration ("OSHA") did not follow the National Institute for Occupational Safety and Health's ("NIOSH") recommendations to ban silica as an abrasive in blasting and to strengthen regulations on silica exposure. SSA's public argument was that workers had come down with silicosis because they "had no air-fed hoods". Privately, SSA withheld a study conducted in a plant owned by one of the officers of the SSA that "under conditions considered good work practice", nearly half of all air samples were above the accepted standards, indicating danger for the workers. While deceiving workers through

withholding studies and intentionally misrepresenting itself as a safety organization, SSA successfully prevented the promulgation of additional safety regulations and rules for workers which could have saved the health and lives of numerous workers.

Many of the Defendants have been members of the IHF and thus are liable as coconspirators in actively making and/or supporting fraud, misrepresentation, intentional omissions and misinformation to silica workers. The Defendants and the years they were members of these organizations are as follows:

Bob Schmidt -- Member of the SSA; attended 1st meeting; on board of directors

Clark Sand Company -- member of SSA

Clemco Industries -- member of SSA.

Mississippi Valley Silica -- member of SSA.

Schmidt Manufacturing -- member of SSA; Secretary of SSA

Pangborn Corp. -- member of IHF from 1948 until at least 1957.

Empire Abrasive Equipment -- member of SSA.

Specialty Sand -- member of SSA and on Board of trustees.

### **COUNT FIVE - ACTING IN CONCERT**

Additionally and/or alternatively, the Defendants aided and abetted each other in the negligence, gross negligence, and reckless misconduct. Pursuant to the Restatement (Second) of Torts Section 876, each of the Defendants is liable for the conduct of the other Defendants for whom they aided and abetting.

### **COUNT SIX- GROSS NEGLIGENCE**

Defendants' conduct was in conscious disregard for the rights, safety and welfare of the Plaintiff. Defendants acted with willful and wanton disregard for the Plaintiff.

Defendants' conduct constitutes gross negligence. Defendants' gross negligence was a proximate cause of Plaintiff's injuries. Defendants are liable for exemplary and punitive damages.

# VIII. DAMAGES

Plaintiff respectfully requests the following damages be considered separately and individually for the purpose of determining the sum of money that will fairly and reasonably compensate Plaintiffs:

- 1. Severe impairment to their lungs and respiratory system;
- 2. Medical Expenses, past and future;
- 3. Pain and Suffering, past and future;
- 4. Mental Anguish, Anxiety, and Discomfort, past and future;
- 5. Lost wages and income, past and future;
- 6. Fear of Cancer or other silica related diseases:
- 7. Physical Impairment;
- 8. Physical Disfigurement;
- 9. Loss of Enjoyment;
- 10. Loss of Consortium;
- 11. Pre and post judgment interest;
- 12. Exemplary and Punitive Damages:
- 13. Treble damages:
- 14. Reasonable and necessary attorneys fees; and
- 15. Such other relief to which Plaintiff may be justly entitled.

# IX. DISCOVERY RULE

Plaintiff suffers from an occupational illness which has a latency period and does not arise until many years after first exposure to toxic dust. Plaintiff's occupational illness did not distinctly manifest itself until Plaintiff was diagnosed with silicosis. Consequently, the discovery rule applies to this case and the statute of limitations has been tolled until the day that Plaintiff knew or had reason to know of Plaintiff's occupational illness.

# X. CONDITIONS PRECEDENT

All conditions precedent have been performed or have occurred as required by the Mississippi Rules of Civil Procedure.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff demands judgment of and from the Defendants in an amount within the jurisdictional limits of this Honorable Court for compensatory damages against all Defendants, actual damages; consequential damages; exemplary damages, jointly and severally against all Defendants; interest on damages (pre-and post-judgment) in accordance with the law; Plaintiff's reasonable attorney's fees, as well as costs of court and all other costs incurred; and such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED, this the 11th day of May, 2007.

TIMOTHY W. PORTER (MSB#9687)

TIMOTHY W. PORTER, ESQ., MS BAR. NO. 9687
PATRICK MALOUF, ESQ., MS BAR NO. 9702
JOHN T. GIVENS, ESQ., MS BAR NO. 101561
E. CLARK TROUT, ESQ., MS BAR NO. 102207
PORTER & MALOUF, P.A.
825 RIDGEWOOD ROAD
RIDGELAND, MS 39157
POST OFFICE BOX 12768
JACKSON, MS 39236
TELEPHONE (601) 957-1173
TELEFAX (601) 957-7366

7006 2760 0003 5248 8334

American Optical c/o Jeffrey Healy, Esq. 925 Euclid Ave. Suite 1150 Cleveland, Ohio 44115

1st Judicial District 101 N. Court Street Suite B Ellisville, MS 39437 Phone (601) 477-8538 Fax (601) 477-8539



# BART GAVIN

Circuit Clerk - Jones Count

2nd Judicial District P.O. Box 1336 Laurel, MS 39441 Phone (601) 425-2556 Fax (601) 399-4774

> **EXHIBIT** "C"

DATE:	6810	
FAX#:		
TO:	Dara	_
FROM;	BART GAVIN, CIRCUIT CL JONES COUNTY, MS 101 N. COURT ST., STE. B ELLISVILLE, MS 39437 FAX: (601) 477-8539	PRESIVED JUN 0 8 2010  ERK.
RE:		
NUMBER	OF PAGES (INCLUDING TH	IS I AGE):

~ Proudly serving the people of Jones Cou. ty ~

CHINE TO FUH FLAMINITH Timething in Broughon ATTORNEYS FOR DEFENDANT medilpos 50 BOX 137108 paration comments to Land Perparting 34330 Contained Tic : Bornson 21, 200 of <u>1900) 1901 - 110 9</u> PLEADINGS, EXHIBITS, ORDERS FILED, DIST DSITION, ETC 5 14 2007 Complaint 8 17 2007 Summons Issued (34) (Ret to A'ry for Buccos) 830 2007 Order 8 27,2007 Plaintiff's motion for Additional Tema To Sove Broses 37:311 H Dar Lever / Response (CT Coop. System) 9:13 2007 Answer and Determes of Green Southers Gravel Company Inc. To Plaintiff 3 Complaint in 1 All Cross-Claims 9 13 2007 Kelco Sales 4 Engineering Company, A Division of Rolley, Inc.'s Arouse to Playing it's linginale Complaint Artisomative Defences And Answer To A!! Defendants! Cours-Claums) 9 13 Deart Answer And Defences of Mississipy 1 Valley Silica Company Inc. TO Plaintiff's Complains 9 17 and Pulmosain Safety equipment con pradion's Answer And Defences to Plaintiff's Complaint 9 17 2007 Areuses And DeFeners of Empire At Diasive Equipment Corporation to Plainting Con plaint And TO All Corus Claims 9/18 700% answer of Pauli + Griffin Company, Inc. Files 9 18 2007 natice of Service of Dissovery Filed to complaint on Bencifold Testerdant Scott Tachnologues, Inc. 9 21 part Defendant Clemco Industrues Corporation 9 Answer to Plaintiff is Complaint 9 24 2007 Notice of Discovery 9 24 ator Notice of Service of Discoursely 9 24 DOOT Arower of mine safety Applian 20 Company 9 24 2007 Defendant Bucisian Folkaging, Ir = F/K/A Quikitetel malesicals, Inc. 3 Answer to Car oplaint 9 24 2007 Defendant ASh Garave Cement Company's Answer to Complaint 9 25 2007 Areway And Defenses of Dependix DR Aborasives, Inc 9 Relacot Bobschmidt, Inc.'S Answer And Defenses to Plaintiffs (Complaint And All Coloss-Clair D) 9 ablact Schmidt Manufacturing, Inc. 's Areway And Defenses To Plaintiff & Complaint And A I Caros-claims

JUNES CO CIR CLERK 1 DIST	8014778539
ATTORNEYS FOR PLAINTIFF	The state of the s
Jobo McGil Deven	THACHES FOR DEFENDANT
Famabour Conforation,	3.
Cord Page 1990	
PLEADINGS. EXHIBITS. ORDERS FILED. DISPOSITION, ETC	Service many and comments
1 2000 Surum one Tag of (2)	d: com
10 / 2007 Surrow ons - 2 Sund (Rat to fitty for Promos	
The Complaint 1. the agentiane done was fuduate	of the Is
2007 Expect Wither Device To	
10 / 2007 Expert witness Designation of Dependent None Star Industrial 10 / 2007 Defendant Parmelee Industries, In is answer to Praintiff's Co.	ies, the tiled
1000/ Mexendant Hanson Carrenates In	Maint Files
Defences to Plaintitis ( another to Paintiff: Con.	plaint Files
10,1 con The man To Plaintitts Complaint	THE STATE OF THE S
LAGE TOTAL COMPANY JUST DE PRIMER I LAGE	matile,
10 74 2007 Creston Doors agree & Complaint	
in the second of	TO!
10.9 2007 Pforbact Proposition of the Share	
109 2007 Defartant Bungbour Conporation's frame	TO TO
10 10 pour empiera Abrasive Equipment Conferencion's 7  Expect with ESS DESIGNATION	scat Arrol
10/15 par Notice of Filing	
Vols Tre, Dutside of Time	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
Vols Tre, Dutside of Time	dable History
1011 100 Howard Ostral Contracting is the	ATEL CORD
10 24 Boot Agreed Dades of Disnissal ASTO All Claims of Pla Crosen Borotheses Growel Company Inc. (6)	G 260 /60
10 24 BOOT Housed Dades of Dismissale ASTO All Claims of Pla	mit formar
March Townshees Growel Company Inc. of	J 373
They are many with the state of the	, 0
10 29 900 Arouse And Afternasive Defences of Deter	dant
	1 . :
1029 South Other And Incorporated Bount of Defendant Sand Company From Summary Tridgers	1 specialty
11 5 acot Southernsilica of Louisiana, Inc. 5 Art	
DEFENCES TO Plaintiff's Complaint	mas Ama
a language	37 395
11 M Dan wester whereastly some of 10 co for Laurelin	
1 Jan had sures, the Hod Room Specialty Sounds 7.	° 'C
HOWAL HOLLETONES TO PROMINE & TOWNS	t
11 10 lotte Description Clark Barrel January Tries January	n To
1. 1. 1. 1. 1. 1. 2. COUDDISTANT	
11 16 2007 Notice of Spanica of Discolorus 11 20 2007 Summors Issued (Rest to Hita)	
11 post activity vibrates by spentillo of Dianas and	÷ ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ; ;
"I for four the conflict Command the still strain in	
12 3 sept franced Order of Distribute	adult 1
Cancel to 72 451	37 471

1 MAK	1	ALIOHNEYS H	OR PLAINTIFF				
	- [	,1 		- Tank a	۸٥ خلاي	الماتاله-درس	ATTODRICUS
	- 1	: 		i · Aciviv	111001	7000171-	ATTORNEYS FOR DEPEND
	-	· !					
			- <del></del> i	ETAIL	SON CO	goodier	
to page at		Day of Fary Farers Washing of Synams (4		AL		=	
	<del>-</del> <del></del>	14(min . 32n War	<u> </u>	PLEADINGS. E	XHIBITS, ORDER	. FILED, DISPOSITION, ETC	
		.13 10 and	TOR FECT	- 1 6 5 6		Enter A. S the	Book ;
			Die J. C.	or4 E.D.	Bulland (	empery's in	19.100 75
	1	12 11 2007	Plaintiff	2 Com	Daint	3	10
			SEIG DOLL	オをカート	1 6 mil.	monde De	io obta
3		10,000	each 3 10	at with	23823	1 - 1 - 3	and region!
7		410 2007	Derolar	+ E.D. Bus	kasal Cer	North & DERCH	
	į	10 to 1	Stidictes			1 1- 12 3 DESCH	roman !
	ļ;	ion in modil	Devendar	4 8 37.73"	ilianos o	aubande to	
J'r		: , #	rist of to	3C+ , x 1/4	energe er	They is it is	e may
· · ·		12/13007	Notice of S	Burn Killy			<u>ع</u> ا
		12 17 2017	Agricon T	Oction To	racy rea	enced.	<b>,</b>
		12 17 2007 Agreed Initial Discourse Corder 100 201 41 100 100 100 100 100 100 100 100 10					
j		1 18 08/	Jotico Ki s		DISCON'S	pre-	
į			C 28 Frot	عامله من	of Dogers "	anats, Boossin	ridt Irc.
	, i						
		1	10 1/00/100	need to	= lawshit	The sopi	of Roomst
	} \	. 201 LO 1	Dur HORL	Spice 1 15	W. J. Ewrick L	by the of the	200 pt 245
Įį.		0 7 200	A BUNGA	et Enhi	stamese =	Beautowall (	endents Aboreous, Inc.)
3 <i>.</i>	· · · · · · · · · · · · · · · · · · ·						
77	······································	2 4 08 Deserbarts, Bob schmidt, I - And Schmidt Manu. Facturing, Inc: 3 Design ation of Fact And Export					
		راز :	7408888		٠, ٦	- 105,000 r	4 KI CXDOID
		Y 30 08 (V	La esite	Sovice a	Dolon	mis Bubserm	·
(CE	· • · · · · · · · · · · · · · · · · · ·		and Scha	id this	2000	e sur Conner	at tres
- j		A	nd Riceans	nere To	Dlail 5	is liast set	Uchections!
	······································		H wastering		5	2 Large Zot	
- 1	·	TR.	recognicais	ころっていか。	HA PLA	Start of Rod	wasts Joseph
	f ó						: Bristonia
i.							
H			Sometime of	CHO 200	20047:01:	Inc. And Son	nickt !
. E		531 man	and the	me, prince	C.2 W.7	tien to subs	tute Colume
	: 54	18 00 6		with is	y that	tien to subs	JE/ JB
42		10.60.0	1 Jugar	sisterestica	-Equi m	marker than	Dtiron 3
,	····		rbbjanor	neral Fact	: Anidiz	Post Witness	5 Desig Marin
) Tag	Y	2:10,08 2/1	va woore	s compar	~ 50 Epn	day In Parie	Acol 2 011
- 410	<i></i>	(C)	ribourd	しまして, かし	NOHO!	ment Clayed Searing the cap Surrows with Such at sebre semunde se	a careful
	<u>-</u> LC	i: 10:08 ju	municia	oitored rec	U.S 121 7	and at reprise	is marine
· > · · · · · · ·		: Seco	ilestics!	かららか	which he	nael In Your environment Designations	VIN CLASTAM
112	77	7 C8 P	anneiff''s	EXPERT	WHOES &	Decision wealth	of modificat
	. –	27				ししょいこう カナナラング	~ \(\frac{1}{2}\)

# JONES COUNTY CIRCUIT, 1ST JUDICI. L DISTRICT

Case No: 2007-016-CV05

Style: JOHN MCGILBERRY

PANGBORN CORPORATION, ET AL

Presiding Judge: LANDRUM, BILLY JOE

Date/Time Filed: 5/14/2007 08:46:00

Court Type: CIRCUIT

Case Type: CIVIL

Docket/Bk/Pg: GENERAL

### Nature of Case

Primary TORTS-PERSONAL INJURY - Other

## Parties/Representatives

Plaintiff

MCGILBERRY, JOHN

Primary Atty

PORTER TIMOTHY

Defendant PANGBORN CORPORATION

### **Docket Entries**

05/14/2007 CIVIL COVER SHEET -

07/22/2008 AGREED ORDER OF DISMISSAL WITHOUT PREJUDICE - PAULI & GRIFFIN CO., INC.

07/23/2008 AGREED ORDER OF DISMISSAL WITHOUT PREJUDICE - )EPENDABLE ABRASIVES, INC.

07/28/2008 NOTICE OF SERVICE OF DISCOVERY -

08/07/2008 FACT AND EXPERT WITNESS DESIGNATION - UNIMIN CC RP.

08/07/2008 DESIGNATION OF EXPERT WITNESS - UNIMIN CORP.

08/13/2008 ORDER - & JUDGMENT DISMISSING THE MORIE CO. WIT YOUT PREJUDICE

09/19/2008 AGREED ORDER OF DISMISSAL WITHOUT PREJUDICE - ... GAINST DEF, SCOTT TECHNOLOGIES, INC.

09/30/2008 AGREED ORDER SETTING CAUSE FOR TRIAL -

10/29/2008 NOTICE OF SERVICE OF DISCOVERY -

12/04/2008 MOTION FOR SUMMARY JUDGMENT - UNIMIN'S WITH EX 1/BITS A, B, C, D

01/20/2009 NOTICE OF SERVICE OF DISCOVERY -

01/23/2009 PLAINTIFF'S RESPONSE - TO DEF EMPIRE ABRASIVE EQ JIPMENT CORPORATION'S REQUESTS FOR ADMISSION

01/23/2009 NOTICE OF SERVICE -

03/03/2009 ORDER OF DISMISSAL WITHOUT PREJUDICE - AS TO LO-IE STAR INDUSTRIES, INC.

03/13/2009 NOTICE OF HEARING-CIVIL -

03/13/2009 MOTION FOR SUMMARY JUDGMENT - & ITEMIZATION OF UNDISPUTED FACTS

04/22/2009 RENOTICE - OF HEARING

04/22/2009 NOTICE OF CANCELLATION - OF HEARING

05/12/2009 MOTION TO COMPEL - BY MINE SAFETY APPLIANCES CC

05/20/2009 NOTICE OF CANCELLATION - OF HEARING / EMPIRE ADB RAIVE EQUIP. CORP.

06/01/2009 NOTICE OF HEARING-CIVIL -

06/02/2009 MOTION FOR SUMMARY JUDGMENT - MINE SAFETY APP IANCE CO'S

06/10/2009 MOTION FOR SUMMARY JUDGMENT - ETC. / AMERICAN ( PTICAL CORP.

06/11/2009 MOTION FOR SUMMARY JUDGMENT - ETC. / MS VALLEY . ILICA CO.

06/19/2009 NOTICE OF HEARING-CIVIL -

06/24/2009 NOTICE OF HEARING-CIVIL -

07/09/2009 JOINDER IN MOTION - TO COMPEL

07/13/2009 PLAINTIFFS - FIRST SUPPLEMENTAL DESIGNATION OF E. PERT WITNESSESS

07/13/2009 NOTICE OF HEARING-CIVIL -

03/10/2010 AMENDED ORDER - AGREED / SETTING TRIAL 03/12/2010 NOTICE OF SERVICE OF DISCOVERY - RESPONSES

### **Docket Entries**

```
07/13/2009 NOTICE OF HEARING-CIVIL -
    07/21/2009 NOTICE OF CANCELLATION - OF HEARING
    07/21/2009 RE-NOTICE OF HEARING -
    07/22/2009 NOTICE OF CANCELLATION - & RE-SETTING OF HEAI ING
    07/22/2009 CANCELLATION OF HEARING - & RE-NOTICE
    07/23/2009 NOTICE OF CANCELLATION - OF HEARING
    07/23/2009 RE-NOTICE OF HEARING -
    08/07/2009 MOTION - TO SUBSTITUITE & WITHDRAW COUNSEL ( F RECORD
   08/17/2009 REPLY - BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT / AMERICAN OPTICAL
    08/17/2009 AGREED ORDER - DISMISSING UNIMIN CORP. WITHO JT PREJUDICE
   08/17/2009 PLAINTIFF'S RESPONSE - & INCORPORATED MEMOR INDUM TO AMERICAN OPTICAL'S
   08/19/2009 AGREED ORDER - OF DISMISSAL WITHOUT PREJUDIC E / MS VALLEY
   08/19/2009 AGREED ORDER - OF DISMISSAL WITHOUT PREJUDICE / MINE SAFETY APPLIANCES
   08/28/2009 ORDER - DENYING MOTION FOR SUMMARY JUDGMEI IT / ANERICAN OPTICAL CORP.
   08/28/2009 ORDER - DENYING MOTION FOR SUMMARY JUDGMEI T / EMPIRE ABRASIVE EQUIPMENT
   09/01/2009 SUBPOENA DUCES TECUM ISSUED - KELLY HUTCHIN 3
   09/17/2009 SUBPOENA DUCES TECUM ISSUED - MANVILLE TRUS
   09/25/2009 AMENDED - ANSWER BY CLARK SAND CO.
   11/06/2009 ORDER - FROM SC / INTERLOCUTORY APPEAL DISMIT SED / AMERICAN OPTICAL CORP.
  11/06/2009 ORDER - FROM SC DENIED INTERLOCUTORY APPEAL / EMPIRE ABRASIVE EQUIPMENT
  12/04/2009 DEFENDANTS' - MOTION FOR LETTERS ROGATORY / .. RMSTRONG WORLD IND., INC.
  12/04/2009 DEFENDANTS' - MOTION FOR LETTERS ROGATORY / :ABCOCK & WILCOX ASBESTOS
  12/09/2009 PLAINTIFFS - SECOND SUPPLEMENTAL DESIGNATION OF EXPERT WITNESSES
  12/14/2009 LETTERS ROGATORY - # 1 - REQUEST FOR JUDICIAL . . SSISTANCE
  12/14/2009 LETTERS ROGATORY - #2 - REQUEST FOR JUDICIAL F SSISTANCE
  01/04/2010 DESIGNATION OF FACT AND EXPERT WITNESSES - DI F'S, SCHMIDT INC. & MFG. / FIRST
  01/04/2010 DESIGNATION OF FACT AND EXPERT WITNESSES - DI F, KELCO SALES & ENG. CO. / FIRST
 01/12/2010 NOTICE OF HEARING-CIVIL -
 01/12/2010 MOTION FOR SUMMARY JUDGMENT - SOUTHERN SILI CA OF LOUISIANA, INC'S
 01/21/2010 SUBPOENA DUCES TECUM ISSUED -
 01/25/2010 NOTICE OF SERVICE OF DISCOVERY -
 01/26/2010 AGREED JUDGMENT - OF DJISMISSAL DEF, BLAIN SAND & GRAVEL CO., INC.
 01/28/2010 NOTICE OF CANCELLATION -
 01/28/2010 RE-NOTICE OF HEARING -
 02/08/2010 NOTICE OF SERVICE OF DISCOVERY -
 02/08/2010 NOTICE OF SERVICE OF DISCOVERY -
 02/17/2010 NOTICE OF SERVICE OF DISCOVERY - RESPONSES / F JLMOSAN SAFETY EQUIPMENT
02/18/2010 NOTICE OF SERVICE OF DISCOVERY -
02/22/2010 NOTICE OF SERVICE OF DISCOVERY -
02/22/2010 NOTICE OF SERVICE OF DISCOVERY -
02/23/2010 NOTICE OF SERVICE OF DISCOVERY -
02/25/2010 NOTICE OF SERVICE OF DISCOVERY - RESPONSES
03/01/2010 NOTICE OF SERVICE OF DISCOVERY -
03/08/2010 NOTICE OF SERVICE OF DISCOVERY -
03/08/2010 NOTICE OF SERVICE OF DISCOVERY -
```

### **Docket Entries**

03/22/2010 NOTICE OF SERVICE OF DISCOVERY -

03/24/2010 SUBPOENA DUCES TECUM ISSUED - FLUOR DANIEL SERVICES CORP.

03/29/2010 SUBPOENA DUCES TECUM ISSUED - INTERNATIONA . BROTHERHOOD

03/29/2010 MOTION - TO SUBSTITUTE & TO WITHDRAW COUNSI L / AMERICAN OPTICAL CORP.

03/30/2010 ORDER - DENYING SOUTHERNSILICA MOTION FOR & JMMARY JUDGMENT

04/12/2010 ORDER - ON MOTION OF AMERICAN OPTICAL CORP.

04/14/2010 AGREED ORDER OF DISMISSAL WITHOUT PREJUDIC : - PANGBORN CORPORATION 04/14/2010 NOTICE OF HEARING-CIVIL -

04/14/2010 MOTION TO COMPEL - SUPPLEMENTAL RESPONSES TO DISCOVERY

04/15/2010 JOINDER - IN & ADOPTION OF CERTAIN DEFS' MOTIC 1 TO COMPEL SUPPLEMENTAL RESPONSES / EMPIRE ABRASIVE EQUIP.

04/23/2010 DESIGNATION OF FACT WITNESSES - BY PULMOSAN SAFETY

04/23/2010 DESIGNATION OF EXPERT WITNESS - BY PULMOSAN SAFETY

04/30/2010 NOTICE OF HEARING-CIVIL -

04/30/2010 MOTION - FOR CONTEMPT OR ALTERNATIVELY MOTI ON TO COMPEL

05/10/2010 NOTICE OF CANCELLATION -

05/11/2010 DEFENDANTS' - AMERICAN OPTICAL CORP. JOINDER N & ADOPTION OF CERTAIN DEFS'

05/12/2010 NOTICE OF SERVICE OF DISCOVERY -

05/14/2010 NOTICE OF HEARING-CIVIL -

05/14/2010 MOTION TO QUASH - NOTICE OF VIDEOTAPED DEPO: ITION OR, IN THE ALTERNATIVE, MOTION TO LIMIT THE SCOPE OF VIDEOTAPED / EMP RE ABRASIVE EQUIP. CO.

05/14/2010 NOTICE OF HEARING-CIVIL -

05/17/2010 MOTION TO QUASH - & FOR PROTECTIVE ORDER

05/17/2010 SUBPOENA DUCES TECUM ISSUED -

05/18/2010 ORDER - DENYING MOTION TO QUASH & FOR PROTE: TIVE ORDER & MOTION TO QUASH THE NOTICE OF VIDEOTAPED DEPOSITION OR IN THE ALTERNATIVE MOTION TO LIMIT THE SCOPE OF VIDEOTAPED DEPOSITION

05/18/2010 ORDER - HOLDING RULING IN ABEYANCE ON MOTION TO COMPEL

05/18/2010 SUBPOENA DUCES TECUM ISSUED - IMPACT

05/18/2010 SUBPOENA DUCES TECUM ISSUED - JON A. SWARTZF AGER

05/19/2010 NOTICE OF DEPOSITION - VIDEOTAPED

05/19/2010 NOTICE OF SERVICE OF DISCOVERY - RESPONSES

05/19/2010 LETTER FILED - FROM J. SKIPPER TO P. MALOUF

05/25/2010 EXPERT WITNESS DESIGNATION - DEF'S

05/26/2010 DESIGNATION OF FACT WITNESSES - BY PEARL SAND 3, INC. & PEARL SPECIALTY SANDS,

05/26/2010 DESIGNATION OF EXPERT WITNESS - BY PEARL SAND 3, INC. & PEARL SPECIALTY SANDS,

05/26/2010 NOTICE OF SERVICE OF DISCOVERY -

05/26/2010 REQUEST - FOR ADMISSIONS, REQUESTS FOR PRODUCTION OF DOCUMENTS &

05/28/2010 SUBPOENA DUCES TECUM ISSUED - MDES

05/28/2010 MOTION - WRITTEN OBJECTIONS & MOTION TO QUASH OR FOR ALTERNATIVE RELIEF

05/28/2010 AGREED ORDER OF DISMISSAL WITHOUT PREJUDICE ASH GROVE, CLEMCO IND., CUSTON AGGREGATES, HANSON AGGREGATES, HUM ILE SAND CO., ET AL

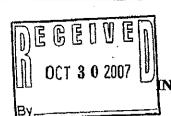
06/01/2010 CROSS-NOTICE - OF DEPOSITION / DEF - AMERICAN O 'TICAL CORP.

06/01/2010 NOTICE OF DEPOSITION -

06/03/2010 DESIGNATION OF EXPERT WITNESS - BY AMERICAN O 'TICAL CORP.

06/04/2010 ORDER OF DISMISSAL WITHOUT PREJUDICE - PULMOS AN SAFETY EQUIP. CORP.

6/8/2010 Agreed Deder of Disamissof 13/0 Prejudice Pearl Sando + Pearl Spicialty Sando



Fred 10-24-07 0RDED

### N THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN McGILBERRY

**PLAINTIFF** 

VS.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, ET AL.

DEFENDANTS

AGREED ORDER OF DISMISSAL AS TO ALL CLAIMS OF PLAINTIFF AGAINST GREEN BROTHERS GRAVEL COMPANY, INC.

THIS CAUSE having come on to be heard on the joint *ore tenus* Motion of Plaintiff John McGilberry and Defendant Green Brothers Gravel Company, Inc., and the Court having been advised that the parties have reached an agreement to the dismissal of Green Brothers Gravel Company, Inc., in the above referenced matter, the Court does hereby:

ORDER AND ADJUDGE that the claims of Plaintiff John McGilberry are hereby dismissed without prejudice as to Green Brothers Gravel Company, Inc., with each party bearing their own respective costs;

ORDER AND ADJUDGE that the Clerk of the Court is hereby directed to forthwith enter this Agreed Order, there being no just cause for delay.

So ORDERED AND ADJUDGED this

 $\frac{3300}{2}$  day of

<u>Vertobl</u>1, 2007

STATE OF MISSISSIPPI COUNTY OF JONES

JUDICIAL DISTRICT

EARTHY ISHTE, Circuit Clerk, in and for said County and Serve do hereby certify that the above and foregoing is a true and covered cover of the above instrument as same appears of record on file

in the office of the Circuit Clerk at J. as County, Mississippi

under my hand and official seal, this the day

LARRY ISHEE, Circuit Clerk
Jones County, Mesuspapa

FILED

OCT 24 2007

LARRY D. ISHEE CIRCUIT CLERK JONES COUNTY, MS

EXHIBIT "D"

### Agreed as to form and content:

W MARY EDWARDS ESO, MASP #8

W. MARK EDWARDS, ESQ. (MSB #8935)

Page, Mannino, Peresich & McDermott, PLLC

759 Vieux Marche Mall

Post Office Drawer 289

Biloxi, MS 39533

Telephone: (228) 374-2100 Fax: (228) 436-5081

Counsel for Defendant Green Brothers Gravel Company, Inc.

R. ALLEN SMITH, IR. (MSB #99984)

The Smith Law Firm, P.L.L.C.

681 B Town Center Blvd.

Ridgeland, MS 39157

Telephone: (601) 952-1422; Fax: (601) 952-1426

TIMOTHY W. PORTER, ESQ. (MSB #9687)

Porter & Malouf, P.A.

825 Ridgewood Road

Ridgeland, MS 39157

Post Office Box 12768

Jackson, MS 39236

Telephone: (601) 957-1173; Fax: (601) 957-7366

Counsel on behalf of Plaintiff

### IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

LARRY J. BEARD

**PLAINTIFF** 

**VERSUS** 

CIVIL ACTION NO.: 207-18-CV6

PANGBORN CORPORATION, ET AL

**DEFENDANTS** 

### NOTICE OF VOLUNTARY DISMISSAL

COMES NOW the Plaintiff, by and through undersigned counsel, pursuant to Rule 41(a) M.R.C.P., and files this his Notice of Voluntary Dismissal of Defendant, Dependable Abrasives, Inc., agent of service of process Charles Evans, Mississippi Business I.D. #683184. Plaintiff hereby dismisses with prejudice all claims against said Defendant in the above-styled and numbered cause. Plaintiff reserves all rights against all other defendants.

Respectfully submitted,

Timothy W. Porter (MSB # 9687)

Attorney for Plaintiff

Timothy W. Porter Porter & Malouf, P.A. P.O. Bo x12768 Jackson, MS 39236-2768 Phone: 601-957-1173

FAX: 601-957-7366

### CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Notice of Voluntary Dismissal has been served to all counsel of record via email.

This the 11 day of 14, A.D., 2007

Timothy W. Porter

DCT 2 6 2007

FILE

ONES COUNTY I 150 CIRCUIT CARRA ONES COUNTY I 150

536

# Wirt Gavin, Circuit Clerk, Jones County, Mississi Wirt Gavin, Circuit Clerk, Jones County, Mississi

### IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN MCGILBERRY

**PLAINTIFF** 

VS.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, ET AL

**DEFENDANTS** 

### AGREED JUDGMENT OF DISMISSAL

This matter was brought on for hearing on the oral motion of the defendant Dependable Abrasives, Inc. (Dissolved) to have the claims of plaintiff John McGilberry against Dependable Abrasives, Inc. (Dissolved) dismissed without prejudice. The Court, having considered the motion and the agreement of the parties, finds that the motion should be well taken and granted.

IT IS, THEREFORE, ORDERED that the claims of plaintiff John McGilberry are dismissed without prejudice against Dependable Abrasives, Inc. (dissolved). Each party is to bear its own costs and attorney fees.

so ordered, this 23 day of July, 2008.

CIRCUIT COURT JUDGE

APPROVED

R. ALLEN SMITH BAP # 99984 ATTORNEY FOR PLAINTIFF

COUNTY OF JONES

Kictorian kanadla	7 120 40 TOLES
bne yezh a la c'hard yezh and rank rank rank lat dez above and roregond sa rrae and	THE TOTAL R # 100436
DIOSELIO SIBBLIDO SUUSO SE LIBERRALISME	MANAGERIAL AND MANAGERIAL PROPERTY OF THE PROP
ABRASIVES, INGO (DISS	inississim kinnon saoal Mannahan
flicial seal, this the day	Given under my hand and o
4281-118095/ba 05 .C.A	the state of the s
BART GAVIN, Circuit Clerk Jones County, Mississippi	

FILED

JUL 2 3 2008

BART GAVIN CIRCUIT CLERK JONES COUNTY, MS

### IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN MCGILBERRY

PLAINTIFF

٧.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, ET AL.

DEFENDANTS

### AGREED JUDGMENT OF DISMISSAL

THIS DAY this cause came on before the Court on Motion ore tenus of the Defendant, Blain Sand & Gravel Co., Inc. ("Blain"), to have the claims of Plaintiff, John McGilberry, against Blain dismissed without prejudice. The Court being advised that the Plaintiff has agreed to dismiss all claims against Blain in this matter without prejudice, finds said motion well taken and granted and hereby removes this matter from its docket.

IT IS THEREFORE ORDERED AND ADJUDGED that all claims of the Plaintiff John McGilberry against Defendant Blain, are hereby discharged and that the Complaint and pleadings of Plaintiff and all causes of action contained therein or referred to, be and all of the same are, hereby dismissed without prejudice with each party separately bearing its respective costs for this action.

SO ORDERED AND ADJUDGED this the

s to Form Or

MS Bar No 99984 John T. Givens, Esq., MS Bar No. 101561 Attorneys for Plaintiff

Silas W. McCharen, Esq., MS Bar No.2213 Attorney for Defendant Blain Sand & Gravel

Co., Inc.

### IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN McGILBERRY

**PLAINTIFF** 

٧.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, et al.

**DEFENDANTS** 

### AGREED ORDER OF DISMISSAL WITHOUT PREJUDICE

This matter came before the Court on the joint motion of Plaintiff John McGilberry and Defendants Ash Grove Cement Company, Clemco Industries Corporation, Custom Aggregates & Grinding, Inc., Hanson Aggregates, Inc. f/k/a Hanson Aggregates Central, Inc. f/k/a Pioneer South Central, Inc. f/k/a Pioneer Concrete of Texas, Inc., Humble Sand Co., Inc. d/b/a Humble Sand & Gravel, Inc., Parmelee Industries, Inc., Precision Packaging, Inc. f/k/a Quikrete Materials, Inc. and Southern Silica of Louisiana, Inc., to have plaintiff's claims against Ash Grove Cement Company, Clemco Industries Corporation, Custom Aggregates & Grinding, Inc., Hanson Aggregates, Inc. f/k/a Hanson Aggregates Central, Inc. f/k/a Pioneer South Central, Inc. f/k/a Pioneer Concrete of Texas, Inc., Humble Sand Co., Inc. d/b/a Humble Sand & Gravel, Inc., Parmelee Industries, Inc., Precision Packaging, Inc. f/k/a Quikrete Materials, Inc. and Southern Silica of Louisiana, Inc. dismissed without prejudice. The Court, having considered the motion, and being further advised that the parties to this order are in agreement, finds that the motion is well-taken and should be granted.

IT IS, THEREFORE, ORDERED that the claims of Plaintiff John McGilberry are dismissed without prejudice as to Defendants Ash Grove Cement Company, Clemco Industries Corporation, Custom Aggregates & Grinding, Inc., Hanson Aggregates, Inc. f/k/a Hanson Aggregates Central, Inc. f/k/a Pioneer South Central, Inc. f/k/a Pioneer Concrete of Texas, Inc., Humble Sand Co., Inc. d/b/a Humble Sand & Gravel, Inc., Parmelee Industries, Inc., Precision Packaging, Inc. f/k/a Quikrete Materials, Inc. and Southern Silica of Louisiana, Inc. with each party to be a second of the same of the same

SO ORDERED, this 27th day of May, 2010

MAY 2 8 2010

EXHIBIT "E" CIRCUIT CLERK

MIN 40 683

AGREED TO:

Edwin S. Gault Jr., MSB No. 10187
Jennifer J. Skipper, MSB No. 100808
FORMAN PERRY WATKINS KRUTZ & TARDY LLP
200 South Lamar Street, Suite 100
Jackson, Mississippi 39201-4099

Telephone: (601) 960-8600 Facsimile: (601) 960-8613

Attorneys for Defendants

Timothy W. Porter, MSB No. 9687 John T. Givens, MSB No. 101561 PORTER & MALOUF, P.A. P.O. Box 12768 Jackson, Mississippi 39236-2768

R. Allen Smith, MSB No. 99984
THE SMITH LAW FIRM
681 Towne Center Boulevard, Suite B
Ridgeland, Mississippi 39157
Telephone: (601) 952-1422
Facsimile: (601) 952-1426

Attorneys for Plaintiff

### IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI

JOHN MCGILBERRY

**PLAINTIFF** 

VS.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, ET AL.

**DEFENDANTS** 

# DEFENDANT PRECISION PACKAGING, INC. f/k/a <u>QUIKRETE MATERIALS, INC.'S ANSWER TO COMPLAINT</u>

Defendant Precision Packaging, Inc. f/k/a Quikrete Materials, Inc. (hereinafter referred to as "Defendant" or "Precision") answers the above-styled Complaint as follows:

### **DEFENSE 1**

Plaintiff's Complaint fails to state a claim or cause of action against this Defendant upon which relief may be granted.

### **DEFENSE 2**

Defendant answers Plaintiff's Complaint filed against it paragraph by paragraph as follows:

### I. <u>HISTO</u>RY OF THE CASE

Defendant states no response is required for the unnumbered paragraph of Section I, "HISTORY OF THE CASE." To the extent a response is required, Defendant denies the unnumbered paragraph of Section I, "HISTORY OF THE CASE."

# II. PLAINTIFF

Defendant lacks knowledge or information sufficient to admit or deny the allegations of the unnumbered paragraph of Section II, "PLAINTIFF."

### III. <u>DEFENDAN</u>TS

Defendant admits that it is a corporation of a state other than the State of Wiss

EXHIBIT
"F"

SEP 2 4 2007

LARRY ISHEE

CIRCUIT CLERK

DNES PRIMARY AND

Defendant denies the remaining allegations of the unnumbered paragraphs under Section III, "DEFENDANTS," as they pertain to this Defendant. To the extent the remaining allegations pertain to other Defendants, Defendant lacks sufficient information to admit or deny the allegations.

# IV. <u>JURISDICTION</u>

Defendant lacks knowledge or information sufficient to admit or deny the allegations of the first and second unnumbered paragraphs under Section IV, "JURISDICTION" and therefore, denies the same.

### V. VENUE

Defendant lacks knowledge or information sufficient to admit or deny the allegations of the unnumbered paragraph under Section V, "VENUE" and therefore, denies the same

### VI. FACTS

Defendant lacks knowledge or information sufficient to admit or deny the allegations of the first unnumbered paragraph under Section VI, "FACTS" and therefore, denies the same.

Defendant lacks knowledge or information sufficient to admit or deny the allegations of the second unnumbered paragraph under Section VI, "FACTS" and therefore, denies the same.

Defendant admits that it sold industrial sand for a period of time. Defendants lacks knowledge or information sufficient to admit or deny the remaining allegations of the third unnumbered paragraph under Section VI, "FACTS" and therefore, denies the same.

Defendant lacks knowledge or information sufficient to admit or deny the allegations of the fourth unnumbered paragraph under Section VI, "FACTS" and therefore, denies the same.

Defendant denies the allegations of the fifth unnumbered paragraph under Section VI,

"FACTS."

Defendant denies the allegations of the sixth unnumbered paragraph under Section VI, "FACTS."

Defendant lacks knowledge or information sufficient to admit or deny the allegations of the seventh unnumbered paragraph under Section VI, "FACTS" and therefore, denies the same.

Defendant lacks knowledge or information sufficient to admit or deny the allegations of the eighth unnumbered paragraph under Section VI, "FACTS" and therefore, denies the same.

# VII. CAUSES OF ACTION AND THEORIES OF RECOVERY COUNT ONE - STRICT LIABILITY AND PRODUCT DEFECTS

Defendant denies the allegations of the first and second unnumbered paragraphs under the section titled "Count One - Strict Liability and Product Defects."

### **COUNT TWO - NEGLIGENCE**

Defendant denies the allegations of the first and second unnumbered paragraphs and all subparagraphs contained therein of the section titled "Count Two - Negligence."

### **COUNT THREE - BREACH OF WARRANTEES**

Defendant denies the allegations of the first and second unnumbered paragraphs under the section titled "Count Three - Breach of Warranties."

### **COUNT FOUR - CIVIL CONSPIRACY**

Defendant denies the allegations of the unnumbered paragraphs, and all subparagraphs, of the section titled "Count Four - Civil Conspiracy."

### **COUNT FIVE - ACTING IN CONCERT**

Defendant denies the allegations of the unnumbered paragraph of the section titled "Count

Five - Acting In Concert."

### **COUNT SIX - GROSS NEGLIGENCE**

Defendant denies the allegations of the unnumbered paragraph of the section titled "Count Six - Gross Negligence." Defendant further denies that Plaintiff is entitled to recover exemplary and punitive damages from this Defendant.

# VIII. DAMAGES

Defendant denies that Plaintiff is entitled to recover any damages from this Defendant.

# IX. **DISCOVERY RULE**

Defendant lacks knowledge or information sufficient to admit or deny the allegations of the unnumbered paragraph under the section titled "IX - Discovery Rule" and therefore, denies the same.

# X. CONDITIONS PRECEDENT

Defendant lacks knowledge or information sufficient to admit or deny the allegations of the unnumbered paragraph under the section titled "X - Conditions Precedent" and therefore, denies the same.

Defendant denies the allegations of the unnumbered paragraph which begins with "WHEREFORE," and specifically denies that Plaintiff is entitled to compensatory damages, punitive damages, interests, cost or any judgment against it jointly or severally in any amount whatsoever.

### **DEFENSE 3**

If none of the witnesses to the alleged silica exposure of Plaintiff reside in Mississippi, or

if most reside outside of Mississippi, travel to and from Plaintiff's state of residence for witnesses and counsel for necessary discovery and trial would place an undue burden upon Defendants. Furthermore, this Court may be required under principles of conflicts of law to apply foreign law, with which this Court and Mississippi counsel are unfamiliar. This Defendant, therefore, moves to dismiss this action under the doctrine of forum non conveniens.

### **DEFENSE 4**

Defendant objects to process and service of process as insufficient.

### DEFENSE 5

This Court lacks jurisdiction over the person and/or property of this Defendant.

Accordingly, this action should be dismissed as to this Defendant.

### **DEFENSE 6**

This Court lacks jurisdiction over the subject matter of Plaintiff's claims.

### **DEFENSE 7**

This action should be stayed pending the outcome of other, similar actions pending in Mississippi, Texas, and other jurisdictions.

### **DEFENSE 8**

Plaintiff's fraud claims should be dismissed for failure to plead such claims with sufficient particularity, as required by Miss. R. Civ. P. 9.

### **DEFENSE 9**

Plaintiff's injuries, if any, were proximately caused by Plaintiff's free and voluntary assumption of risks, which were known by the Plaintiff.

### **DEFENSE 10**

The conditions alleged by Plaintiff to have caused his injuries were both open and obvious.

### **DEFENSE 11**

Plaintiff's claims are barred by the applicable statutes of limitation of this state and/or other states, or alternatively, by the doctrine of laches.

### **DEFENSE 12**

Plaintiff's claims, or some of them, are barred by the provisions of Miss. Code Ann. § 15-1-

### **DEFENSE 13**

41.

If Plaintiff suffered injury or damage as alleged, which is denied, the same resulted solely from acts or omissions of persons or entities for which this Defendant is neither liable nor responsible. Such acts or omissions on the part of others constitute an independent, intervening and sole proximate cause of such injury or damage.

### **DEFENSE 14**

Plaintiff's claims against this Defendant are speculative and do not warrant recovery.

### **DEFENSE 15**

It was the duty of Plaintiff's employers, and not this Defendant, to furnish Plaintiff with a reasonably safe place within which to work, including all necessary and adequate warnings and safety appliances, and if Plaintiff received any injury or suffered any damage from working with this Defendant's product, which is denied, the failure of Plaintiff's employers in their duty was the sole proximate cause of any such injury or damage, if any. In the alternative, the failure of Plaintiff's employers in their duty, was such an intervening cause as to relieve this Defendant from any liability to Plaintiff.

### **DEFENSE 16**

If Plaintiff sustained any injury as alleged, which is denied, the same resulted, upon

information and belief, from Plaintiff's own negligence, including the failure to care for his own health by using tobacco products over an extended period of time. The use of said tobacco products or other contributing negligence is the sole, direct and proximate cause, or a contributing cause, of the alleged injuries or damages, if any, about which Plaintiff complains.

# **DEFENSE 17**

To the extent the Plaintiff's Complaint alleges injuries from any product used by the government or its agencies, the use by Plaintiff of silica-containing materials, if any, was in accordance with the requirements of the designs, plans, and specifications of the government or its agencies and in strict compliance therewith and with all required federal regulations and standards. This Defendant cannot be held liable to the Plaintiff for complying with the designs, plans, specifications, and requirements of the government or its agencies under national defense procurement contracts or other government contracts and for supplying materials for such contracts in accordance with their terms, and under, but not limited to, the Government Contractor Defense.

#### **DEFENSE 18**

Any product manufactured, sold or supplied by this Defendant was not defective or unreasonably dangerous in that it complied, at all relevant times, with all applicable government safety standards.

#### **DEFENSE 19**

If Plaintiff sustained any injury or damage, which is denied, then such injury or damage was proximately caused or contributed to by exposure to and inhalation of noxious and deleterious fumes and residues from industrial products and by-products prevalent on Plaintiff's job sites and substances other than those manufactured or sold by this Defendant, and by cumulative exposure to all types of environmental and industrial pollutants of air and water.

The doctrines of payment, release, and accord and satisfaction, where applicable, bar the recovery sought by Plaintiff against this Defendant.

#### **DEFENSE 21**

There should be no recovery because, upon information and belief, Plaintiff failed to mitigate his damages, if any, as required by law.

#### **DEFENSE 22**

There should be no recovery against this Defendant because, upon information and belief, the conduct of Plaintiff or others constituted abuse and misuse of the product so as to substantially change the condition of the product prior to Plaintiff's injuries, if any

# **DEFENSE 23**

There should be no recovery of punitive damages against this Defendant because such a recovery would violate:

- a. The Eighth Amendment to the Constitution of the United States;
- b. The Fourteenth Amendment to the Constitution of the United States;
- c. The Fifth Amendment to the Constitution of the United States;
- d. The Tenth Amendment to the Constitution of the United States;
- e. Federal common law; and
- f. The Constitutions of the State of Mississippi and of Plaintiff's residence.

#### **DEFENSE 24**

An award of punitive damages against this Defendant in this case is unconstitutional and in violation of the Due Process and Equal Protection Clauses of the Fifth and Fourteenth Amendments of the Constitution of the United States, as well as Article 3, Section 14 of the Constitution of the

State of Mississippi.

#### **DEFENSE 25**

An award of punitive damages against this Defendant in this case would violate the Excessive Fines Clause of the Eighth Amendment of the Constitution of the United States.

# **DEFENSE 26**

Plaintiff's claims for punitive damages are barred by the "Double Jeopardy" Clause of the Fifth Amendment to the United States Constitution, as applied to the states through the Fourteenth Amendment.

#### **DEFENSE 27**

A damage award based on conspiracy constitutes a violation of the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the Constitution of the United States.

#### **DEFENSE 28**

If Plaintiff has heretofore settled or should hereafter settle for any of the alleged injuries and damages with anyone, including other parties or potential joint tortfeasors, this Defendant is entitled to a credit and offset in the amount of said settlement and/or for the amount of the settling parties' and/or persons' allocated a percentage of fault.

#### **DEFENSE 29**

Upon information and belief, the Complaint fails to name indispensable parties and, therefore, must be dismissed. Alternatively, this civil action should be stayed pending other appropriate relief by the Court.

# **DEFENSE 30**

This Defendant has no liability to Plaintiff because Plaintiff's employers were sophisticated users and/or learned intermediaries with the result that any duty of this Defendant to warn of any

danger incident to use, exposure or installation of the products (the existence of such duty is denied) was discharged by those employers' intervening duties to give Plaintiff all required warnings.

#### **DEFENSE 31**

There should be no recovery against this Defendant for medical expenses incurred in the care, diagnosis or treatment of injury to Plaintiff, if any, because said Plaintiff's employers are obligated under the Workers' Compensation laws of the state of Plaintiff's residence to pay for medical expenses which were incurred as a result of this occurrence, or because said Plaintiff was entitled to receive benefits from private or public health insurance programs, health benefit plans, union-sponsored or union-provided health benefit plans, or other sources of health benefits which are responsible for the payment of all past, present and/or future medical expenses.

#### **DEFENSE 32**

There should be no recovery against this Defendant because, to the extent that this Defendant acted or failed to act, this Defendant's conduct was in keeping with the state of the medical and industrial arts as they existed at all pertinent times.

#### **DEFENSE 33**

There should be no recovery against this Defendant because of any failure to warn or inadequacy of warning because, upon information and belief, at all times pertinent to Plaintiff's claims, said Plaintiff was possessed of or should have been possessed of good and adequate knowledge which negated any need for said warning and/or Plaintiff was required to follow specific written safety procedures as established by Plaintiff's employers which negated the need or requirement for any such warning.

# **DEFENSE 34**

There should be no recovery against this Defendant because the exposure of Plaintiff to this

Defendant's products, if any, was de minimus. If it is shown at the time of trial that Plaintiff was exposed to any product of this Defendant, said exposure was so minimal as to be insufficient to establish to a reasonable degree of probability that this Defendant's product substantially factored in or was the proximate cause of the alleged injuries.

# **DEFENSE 35**

Upon information and belief, this action is barred by Miss. Code Ann. § 15-1-65 (1972).

#### **DEFENSE 36**

To the extent that Plaintiff has filed an action in any other Court against some or all of these same Defendants, this action should be dismissed in the interest of judicial economy and so as to prevent double recovery.

#### **DEFENSE 37**

The products in issue were changed, altered, or modified after they left this Defendant's control and such change, alteration, or modification was the legal cause of Plaintiff's damages, if any.

#### **DEFENSE 38**

Plaintiff was negligent in the use and operation of the products in issue, if any, and any recovery should be reduced in proportion to the degree of Plaintiff's own negligence.

#### **DEFENSE 39**

Plaintiff's claims are preempted by the regulations of the Occupational Safety and Health Administration and other applicable federal laws.

#### **DEFENSE 40**

If Plaintiff used any of this Defendant's products, which is denied, on information and belief, such products were used for a purpose, in a manner or in an activity contrary to express adequate

instructions or warnings appearing on or attached to the products or on their original containers or wrappers. Alternatively, the absence of warnings on any products sold by this Defendant did not make such products defective and unreasonably dangerous nor did it lead to reliance by the Plaintiff or his employers, on the safety of any such products.

# **DEFENSE 41**

This Defendant was not negligent, did not furnish a product defective and unreasonably dangerous, and did not make or breach any express or implied warranties.

#### **DEFENSE 42**

This Defendant denies that Plaintiff was ever exposed to any silica-containing products sold by this Defendant.

#### **DEFENSE 43**

If it be proved that this Defendant furnished any products to the employers of Plaintiff, to which products Plaintiff was exposed, then any such products were furnished in strict conformity to the specifications furnished through such employers.

#### **DEFENSE 44**

To the extent that the Plaintiff was exposed to any alleged product which was acquired from or sold by or used on behalf of the United States of America or any state or political subdivision thereof, this Defendant is entitled to any sovereign or governmental immunity available to the United States or any such state or political subdivision.

#### **DEFENSE 45**

To the extent applicable, this Defendant pleads the provisions of Miss. Code Ann. § 85-5-7 (Supp. 1994).

This Defendant pleads the applicable provisions of Miss. Code Ann. § 11-7-15.

#### **DEFENSE 47**

This Defendant denies that it participated in any conspiracy or conduct designed or intended to deceive or misrepresent the qualities, characteristics, or properties of any product it designed, manufactured, marketed or sold.

#### **DEFENSE 48**

Plaintiff is barred from bringing this action under the doctrine of res judicata.

#### **DEFENSE 49**

Some or all of the issues in this lawsuit have already been litigated and, therefore, Plaintiff is collaterally estopped from re-litigating those issues.

#### **DEFENSE 50**

No duty to warn or notify Plaintiff of any danger from exposure to this Defendant's products has ever devolved upon this Defendant; nevertheless, any delay by this Defendant in notification or warning to Plaintiff of such danger, which is claimed to have been required (and this Defendant denies that there was any such requirement or delay) is of no consequence and gives rise to no claim on the part of Plaintiff against this Defendant. Significantly, before the time any alleged duty to notify or warn could have arisen as to this Defendant, Plaintiff was exposed to silica and/or silica containing products from other sources sufficient to cause his alleged conditions, and notification or warning thereafter is of no value. There is, therefore, no proximately causal relationship between any delay in notification or warning to Plaintiff and his subsequent alleged conditions.

#### **DEFENSE 51**

Any injuries, illnesses, diseases, disabilities, losses or damages alleged by Plaintiff was

proximately caused or contributed to by an act or acts and omission or omissions on the part of Plaintiff's fellow servants, fellow supervisors and employers, and, accordingly, recovery or relief against this Defendant is barred.

#### **DEFENSE 52**

If Plaintiff was an employee of this Defendant during his alleged exposure, his claims are barred by the exclusive remedy provisions of the applicable Workers' Compensation Act as to each applicable Defendant.

# **DEFENSE 53**

The manufacture, packaging, and sale of all products produced by this Defendant met all state-of-the-art design and manufacturer requirements, as well as all applicable federal and state codes at the time of manufacture.

# **DEFENSE 54**

The injuries, if any, for which Plaintiff seeks recovery resulted from Plaintiff's pre-existing illnesses or conditions not common to other persons and not determinable or foreseeable by this Defendant. All injuries and damages alleged by Plaintiff, if any, were proximately contributed to by Plaintiff's pre-existing injuries and conditions.

#### **DEFENSE 55**

This Defendant reserves the right to amend its answer and affirmative defenses after investigation, discovery and further information is disclosed to this Defendant to enable it to properly answer the Complaint and defend the claim asserted herein against this Defendant. This Defendant further will rely upon any law that is available to it after the completion of discovery and investigation of this cause.

This Defendant retains its right to seek contribution and/or indemnification against any and all manufacturers of silica-containing materials who have filed petitions in various bankruptcy courts and consequently are not presently within the jurisdiction of this Court.

# **DEFENSE 57**

This Defendant adopts and incorporates any and all other defenses raised by any other Defendant in this litigation to the extent that said defenses are not inconsistent with this Defendant's assertion that it is not liable to Plaintiff for any amount whatsoever.

# **DEFENSE 58**

The Complaint should be dismissed based on a mis-joinder of parties and/or claims.

#### **DEFENSE 59**

Venue is improper.

# **DEFENSE 60**

Plaintiff was a sophisticated user of any product manufactured, supplied or sold by Defendant.

#### **DEFENSE 61**

Defendant pleads the applicable provisions of the Noerr-Pennington Doctrine.

#### **DEFENSE 62**

The Complaint improperly joins parties in this action. Plaintiff's claims against Defendants are independent and do not arise out of the same transaction, occurrence, or event and individual questions of fact or law predominate. Therefore, the Complaint should be dismissed for misjoinder of parties, or this action should be severed, or the Court should stay this action pending appropriate relief.

The Complaint must be dismissed pursuant to Miss. R. Civ. P. 12(b)(6) and/or 12(e), or in the alternative, Plaintiff must replead the Complaint, in order to satisfy the requirements of Miss. R. Civ. P. 8, 9, and 11. As the Mississippi Supreme Court's decision in *Harold's Auto Parts, Inc.*, et al. v. Flower Mangialardi, et al., 889 So. 2d 493 (Miss. 2004) holds, to satisfy Rules 8, 9, and 11, Plaintiff must plead specific facts and legal conclusions that provide each Defendant fair notice of each claim made against it and the grounds thereof. The Complaint fails to meet this standard. As such, it must be dismissed or Plaintiff must be required to replead it, as required by Mangialardi.

#### **DEFENSE 64**

Plaintiff is judicially estopped from bringing this action.

#### **DEFENSE 65**

Plaintiff's claims are barred by the doctrine of election of remedies.

Now, having fully answered the allegations of Plaintiff's Complaint, Defendant respectfully requests that this Court dismiss Plaintiff's Complaint with prejudice and award Defendant costs, expenses, and any other appropriate relief.

# ANSWER OF PRECISION PACKAGING, INC. TO ALL CROSS-CLAIMS ASSERTED BY OTHER DEFENDANTS

Defendant, PRECISION, files this answer to all cross-claims asserted by other Defendants, and says as follows:

#### **DEFENSE 1**

Each and every cross-claim filed herein fails to state a cause of action against this Defendant upon which relief may be granted.

This Defendant denies each and every allegation against it contained in each and every crossclaim filed herein.

#### **DEFENSE 3**

This Defendant hereby adopts and incorporates herein by reference each and every responsive pleading and affirmative defense as set forth in its answer to the Complaint as if fully set forth herein.

# **DEFENSE 4**

Those defendants filing cross-claims have no cause of action for contribution and/or indemnification against this Defendant.

WHEREFORE, Defendant Precision Packaging, demands that all claims against it be dismissed with prejudice.

THIS, the Stday of September, 2007.

Respectfully Submitted,

EDWIN S. GAULT, JR., MSB #10187

M. CHRISTINE CROCKETT, MSB #10107

ATTORNEYS FOR PRECISION PACKAGING, INC. f/k/a QUIKRETE MATERIALS, INC.

FORMAN PERRY WATKINS KRUTZ & TARDY LLP 200 South Lamar Street
City Centre Building
Suite 100
Jackson, Mississippi 39201
(601) 960-8600 - Telephone
(601) 960-8613 - Facsimile

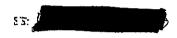
# **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that I have this day mailed, via United States mail, postage prepaid a true and correct copy of the above and foregoing to the individual Plaintiff's Counsel of record and written notice of filing of the foregoing document to counsel for defendants at their usual business addresses and/or facsimile and/or electronic correspondence.

THIS the day of September, 2007.

M. Christine Crocket

STATE OF MS
COUNTY OF LONG.



# AFFIDAYIT OF JOHN McGILBERR !

BEFORE ME, the undersigned authority, on this day persone y appeared, Affiant,

John McGilberry, known to me to be the person whose signature app are on this document,

and after being duly sworn states as follows:

- 1. My name is John McGiberry:
- 2. I am over the age of eighteen (18) and of sound mind.
- I was exposed to silicarar several of my jobsites as specified in my deposition taken on April 5-6, 2004.
- 4. I wore American Optical dust masks and respirators will being exposed to silical as specified in my sworn fact sheet of January 16, 2004 (01/16/2004) and amended sworn fact sheet dated April 5, 2004 (04/05/2 104).

FURTHER, AFFIANT SAYETH NOT:

John Mc Milbran

SUBSCRIBED AND SWORN TO BEFORE on this the 13th ay of August, 2009

BART GAVIN, Circuit C erk La lotte Holdiso, D. C.

ci Mi Commission Expires:

My Commission Expires 1st Monday, Jan

EXHIBIT

EXHIBIT "G"

# BUFFINGTON PLAINTIFF FACT SHEET

Background Information		i da
Name:		
Address	City:	State:
D.O.D	Cause of	Death
If you are completing this question a deceased person), please complet	naire in a representative the following:	e capacity (i.e., on behalf of the estate of
Your Name:		
Your Address:		
If you were appointed by a Co	ourt, state the:	
Court:	D	ate of Appointment:
please respond to t who was allegedly "You" or "Plaintiff silica. If the indiv	the remaining question exposed to silica. To refer to the person widual is deceased, p	e in a representative capacity, ons with respect to the person hose questions using the term who was allegedly exposed to blease respond as of the time nless a different time period is
Plaintiff's State and County of Resi	dence when allegedly e	xposed to silica:
Date(s)	State of Residence	County of Residence
1976 – 1985 1973 – 1976 1971 – 1973 1985 – 1987	Mississippi Mississippi Mississippi Mississippi	Jones Jones Jones Jones
1987 — 1990	Mississippi	Jones

Jones Jones Jones

**EXHIBIT** 

# Plaintiff's Employment History

Employer Name: Nehi Plant
 Employer Address: Laurel, MS 39440

Date(s) of Employment 1972

	Employor radics	s. Daulei,	1110 33770	- - :	ź,	
***************************************	Jobsite/Location (Including, City/State)	Date(s)	Trade or Occupation	Identity of Contractor or Other Party at Jobsite Plaintif Contends Responsible	Masks o Respirato Used	
a.	Laurel, MS	1972	Loading Trucks	Not claiming exposure at this site	Not claimi exposure a this site	<u> </u>
2.	Employer Name:	Tom Pittn	nan	Date(s)	of Employmen	ut 1973 – 1974
	Employer Address	s: Ellisvill	le, Mississippi			
	Jobsite/Location (Including City/State)	Date(s)	Trade or Occupation	Identity of Contractor or Other Party at Jobsite Plaintiff Contends Responsible	Masks or Respirators Used (y/n)	Identification of All Products Used by Manufacturer, Model #, or Other Information
a.	Ellisville, Mississippi	1972- 1974	Sandblaster and cement finisher	Do Not Recall At This Time		Willson #6 Dustite Respirator & Box, Willson #11 Dustite Respirator and box, American Opticla black rubber dual cartridge respirator, H-30 type non- airfed hood (Pulmosan), U.S. Safety "Multipurpose 7-1" Dual cartridge respirator 300ML (dark gray) with head harness, North 770030L, half mask dual cartridge respirator, North 7175N95 disposable particulate respirator in box, Norton 65306 Nuisance dust mask in bag, Norton 65076 Nuisance dust mask in

package, 3M 8500 Nuisance paper dust mask in box of 20, Cesco Black Shoulder Length hood with plastic facepiece, Eastern Safety Comfort Masks Code 348-2, Eastern Safety ALLPRO dust masks in box of 50, Standard Sand & Silica Co.-50 lb bag, Dupont-Florida Zircon Sand-50 lb bag, Texas Mining Co.-Blastsand-50 lb bag, Oglebay Norton Industrial Sands Inc-50 lb bag, Empire SuperBlast Blasting Machine (from Empire SuperBlast catalogue), Empire SuperBlast 650 Blasting Machine (from Empire SuperBlast catalogue), Texblast-Lone Star Industries, Souther Silica "Blasting Sand", Gerson 1501 mask, Unimin Industrial Quartz, Diamond Blast d-b-a Dependable Abrasive

3. Employer Name: Howard Industries

Date(s) of Employment 1975 & 1981 - 1983

Employer Address: Laurel, Mississippi

	Jobsite/Location (Including City/State)	Date(s)	Trade or Occupation	Identity of Contractor or Other Party at Jobsite Plaintiff Contends Responsible	Masks or Respirators Used (y/n)	Identification of All Products Used by Manufacturer, Model #, or Other Information
a.	Laurel, Mississippi	1975	Core Lacer/painter	Do Not Recall at this Time	No	Worked around sandblaster but did not use any
b.		1981 –		Do Not Recall at		products

		1983	Core Lacer/painter	this Time		
4.	Employer Name: S Employer Address			Date(s) of	Employment 19	83 - 1985
	Jobsite/Location (Including City/State)	Date(s)	Trade or Occupation	Identity of Contractor or Other Party at Jobsite Plaintiff Contends Responsible	Masks or Respirators Used (y/n)	Identification of All Products Used by Manufacturer, Model #, or Other Information
a.	Laurel, MS.	1983 — 1985	Truck Driver	Not claiming exposure at this site	Not claiming exposure at this site	Not claiming exposure at this site

(Please attach additional sheets if necessary)

5. Employer Name: H.Gordon Myrick Employer Address: Laurel, MS Date(s) of Employment 1985 - 1987

	Jobsite/Location (Including City/State)	Date(s)	Trade or Occupation	Identity of Contractor or Other Party at Jobsite Plaintiff Contends Responsible	Masks or Respirators Used (y/n)	Identification of All Products Used by Manufacturer, Model #, or Other Information
a.	Laurel, MS.	1983 1985	Cement Finisher	Do Not Recall At This Time	Yes	American Optical Dual Cartridge Respirator 50119 Medium, Wilson AR 700 Double Cartridge Respirator, U.S. Safety "Multipurpose 7-1" Dual Cartridge Respirator 300ML (dark gray) with head harness, American Optical 500809M Half Mask dual cartridge respirator, Gerson 1501 Nuisance Paper Dust Mask in box of 50, Norton 65306 Nuisance dust amsk in bag, Norton 65076 Nuisance Dust masks in package, Oxwall DM5 Nuisance Paper dust mask in plastic bag of five, 3M 8715 Paper Dust and Mist Respirator in box of 20, 3M 8500 Nuisance Paper dust mask in box of 20, 3M 8651Es Nuisance Paper Dust mask in package, Eastern Safety Comfort Masks code 348- 2, Eastern Safety ALLPRO Dust Masks in box of 50, Texas Mining Company-Industrial Sand- 50 lb bag, Schmidt Manufacturing Abrasive Pressure Blasters (from

					Pauli Mach Packa Sanste catalo Clem Silica Shot" Kelco Clark Blat d Abras Manu Sullai	idt Manufacturing), & Griffin Blast ines, Sanstorm ged Units (from form-Bowen tools gue 1975-1976), tex sand, Ottawa Company "Flint Gerson 1501 mask, Two sandblast pots, Sand Bag, Diamond l-b-a Dependable sives, Schmidt ffacturing Blast Pac, ir 150 Engine pressor
6.	Employer Name: S			Date(s) of I	Employment 19	
	Employer Address	: Laurel, I	MS			
	Jobsite/Location (Including City/State)	Date(s)	Trade or Occupation	Identity of Contractor or Other Party at Jobsite Plaintiff Contends Responsible	Masks or Respirators Used (y/n)	Identification of All Products Used by Manufacturer, Model #. or Other Information
a.	Laurel, MS.	1987 – 1991	Sanderson Farms (truck	Not claiming exposure at this	Not claiming exposure at	Not claiming exposure at this site
			driver)	site	this site	
7.	Employer Name: I Employer Address			Date(s) of	Employment 19	91 - 1994
	Jobsite/Location (Including City/State)	Date(s)	Trade or Occupation	Identity of Contractor or Other Party at Jobsite Plaintiff Contends Responsible	Masks or Respirators Used (y/n)	Identification of All Products Used by Manufacturer, Model #, or Other Information
a.	Laurel, MS.	1991 – 1994	Sanderson Farms (truck driver)	Not claiming exposure at this site	Not claiming exposure at this site	Not claiming exposure at this site
8.	Employer Name: ` Employer Address			Date(s) of	Employment 19	94 - 1997
	Jobsite/Location (Including	Date(s)	<u>Trade or</u> Occupation	Identity of Contractor or	<u>Masks or</u> <u>Respirators</u>	Identification of All Products Used by

	City/State)			Other Party at Jobsite Plaintiff Contends Responsible	<u>Used</u> (y/n)	Manufacturer, Model #, or Other Information
а.	Laurel, MS.	1994 – 1997	Sanderson Farms (truck driver)	Not claiming exposure at this site	Not claiming exposure at this site	Not claiming exposure at this site
9.	Employer Name: 8 Employer Address		MS	Date(s) of l	Employment 19	97 - 2002
	Jobsite/Location (Including City/State)	Date(s)	Trade or Occupation	Identity of Contractor or Other Party at Jobsite Plaintiff Contends Responsible	Masks or Respirators Used (v/n)	Identification of All Products Used by Manufacturer, Model #, or Other Information
a.	Laurel, MS.	1997 – 2002	Sanderson Farms (truck driver)	Not claiming exposure at this site	Not claiming exposure at this site	Not claiming exposure at this site

Product Description Respirator Respirator Respirator Respirator Respirator Respirator Respirator Respirator Will Supplement Manufacturer Plaintiff's Silica Exposure and Product Usage Dual Cartridge Respirator American Optical 50119 Medium Willson Willson Willson Willson Willson Willson Willson Agritox Respirator & Box Specific Product Name #6 Dustite Respirator & Agritox Model C. Dual Cartridge Respirator & Box w/ R490 filters # 11 Dustite Respirator Valuair Plus 6100 V-M Half Mask Respirator 1200 Series Half Mask 780A and Box and Box

Plaintiff's Silica Exposure and Product Usage

Specific Product Name	Manufacturer	er Supplier	Product Description
Black Rubber Dual Cartridge Respirator	American Optical	Will Supplement	Respirator
Dual cartridge Respirator	Scott ATO	Will Supplement	Respirator
Dual Cartridge Respirator (medium) with Chemical Filters and Head Harness	Willson	Will Supplement	Respirator
AR 700 Double Cartridge Respirator	Willson	Will Supplement	Respirator
H-30 Type Non-Airfed Hood	Pulmosan	Will Supplement	Hood
R5050 Dual cartridge Respirator with Box	American Optical	Will Supplement	Respirator
Dual Cartridge Respirator with AO Safety Combination Cartridge	American Optical	Will Supplement	Respirator
R8210N95 Dust Mask	AO Safety	Will Supplement	Mask

(Please attach additional sheets if necessary)

Plaintiff's Silica Exposure and Product Usage

	THEFTER	a minuti s saitea majiosure and Frounci Osage	ici Osage
Specific Product Name	Manufacturer	Supplier	Product Description
Dual Cartridge Paint Spray Respirator in box	DeVilbiss	Will Supplement	Respirator
8001 Dual Cartridge Respirator (tax) with head harness and chemical cartridges	Moldex	Will Supplement	Respirator
100 Disposable Respirator (Model No. 10002S or 10002M	North	Will Supplement	Respirator
"Multipurpose 7-1" Dual Cartridge Respirator 300M_L (dark gray) with head harness	US Safety	Will Supplement	Respirator
Air Fed Kood	So Go Jo	Will Supplement	Hood
4-1050 Accordian Style Paper Dust Mask	American Optical	Will Supplement	Mask
R5050 Half Mask Dual Cartridge Respirator in box	American Optical	Will Supplement	Respirator
5035SM Half Mask, Dual Cartridge Respirator in Plastic Bag	American Optical	Will Supplement	Respirator

(Please attach additional sheets if necessary)

Plaintiff's Silica Exposure and Product Usage

	Flainth	Flaintiff's Suica Exposure and Product Usage	ict Usage
Specific Product Name	Manufacturer	Supplier	Product Description
500809M Half Mask Dual Cartridge Respirator	American Optical	Will Supplement	Respirator
1501 Nuisance Paper Dust Mask in Box of 50	Gerson	Will Supplement	Mask
770030L, Half Mask Dual Cartridge Respirator	North	Will Supplement	Respirator
7175N95 Disposable Particulate Respirator in Box	North	Will Supplement	Respirator
65306 Nuisance Dust mask in Bag	Norton	Will Supplement	Mask
65076 Nuisance Dust Masks in Package	Norton	Will Supplement	Mask
DMS Nuisance Paper Dust mask in Plastic Bag of Five	Oxwall	Will Supplement	Mask
2100S Half Mask Dual Cartridge Respirator ("Blue") in plastic bag	Survivair	Will Supplement	Respirator

(Please attach additional sheets if necessary)

ıct Usage	Product Description	Respirator	Mask	Mask	Respirator	Hood	Mask	Mask	Mnsk
Plaintiff's Silica Exposure and Product Usage	Supplier	Will Supplement	Will Supplement	Will Supplement	Will Supplement	Will Supplement	Will Supplement	Will Supplement	Will Supplement
Plaintiff	Manufacturer	3M	3M	зМ	American Optical	Cesco	Eastern Safety	Bondo	Eastern Safety
	Specific Product Name	8715 paper Dust and Mist respirator in box of 20	8500 Nuisance Paper Dust Mask in Box of 20	8651ES Nuisance Paper Dust mask in Package	R5000 Sure-Guard Dual Cartridge Respirator with R30 disc-type filter	Black Shoulder Length Hood with Plastic Facepiece	Filter-Mask code 335 with facelet	Dust Masks, reorder Number 947	Comfort Masks Code 348-2

(Please attach additional sheets if necessary)

Plaintiff's Silica Exposure and Product Usage

,	TITATION	Same a Same and Dougle and a country of the	
Speciale Froduct Mame	Manuacturer	Supplier	Froance Description
KA Kleen Airmask w/ Sanitary Face Cloth Code 505	Eastern Safety	Will Supplement	Mask
Nuisance Dust masks Code 928-X in Box of 50	Eastern Safety	Will Supplement	Mask
ALLPRO Dust Masks in Box of 50	Eastern Safety	Will Supplement	Mask
Old Pulmosan Hood (dark)	Pulmosan	Will Supplement	Hood
Dual cartridge 7700 Series Respirator (bluc)	Survivair	Will Supplement	Respirator
Healthguard No. 99 Dual Cartridge Respirator	Cesco	Will Supplement	Respirator
BH-5 Red and Blue non- airfed hood	Empire	Will Supplement	роо <b>н</b>
Sand — 501b bag	Standard Sand & Silica Company	Will Supplement	Sand

(Plense attach additional sheets if necessary)

Plaintiff's Silica Exposure and Product Usage

	A MARKATA S DAMES	A AMAZENANA WANAMA AZALI OBAR O MAMA A A OMINIO OBARIO	Se Course
80	turer	Supplier	Product Description
Si di		Will Supplement	Saud
	Will Su	Will Supplement	Sand
	Will Su	Will Supplement	Sand
		Will Supplement	Sand
-		Will Supplement	Sand
Industral Sand - Sold Dag   Texas Mining Company		Will Supplement	Sand
Industrial Sands — 501b Oglebay Norton bag		Will Supplement	Sand
Abrasive Pressure Blasters   Schmidt Manufacturing		Will Supplement	Pots

(Please attach additional sheets if necessary)

Plaintiff's Silica Exposure and Product Usage

Specific Product Name	anufactur	er Supplier	Product Description
SuperBlast Blasting Machines	Empire	Will Supplement	Blasting Machine
SuperBlast 650 Blasting Machine	Емріге	Will Supplement	Blasting Machine
Packaged Units (1970 – 1971 Sanstorm Bulletin No. 1213)	Sanstorm	Will Supplement	Blasting Kit
Blast Machines	Pauli & Griffin	Will Supplement	Blast Machines
Hoods	Pauli & Griffin	Will Supplement	Kloods
S-70 Sandblast Helmet; and AC-1 Vortex Air Conditioning Helmet Accessory	Sanstrom	Will Supplement	Helmet
Packaged Units (from Sanstorm-Bowen Tools Catalogue 1975 or 1976	Sanstorm	Will Supplement	Blasting Kit
Sand	Clemtex	Will Supplement	Sand

(Please attach additional sheets if necessary)

	Plaintiff	Plaintiff's Silica Exposure and Product Usage	net Usage
Specific Product Name	Manufacturer	Supplier	Product Description
Abrasive Flint	Humble	Will Supplement	Sand
Flint Shot	Ottawa Silica Company	Will Supplement	Sand
Lone Star Industries	Texblast	Will Supplement	Sand
Sand	Specialty Sand Company	Will Supplement	Sand
Blasting Sand	Southern Silica	Will Supplement	Sand
Single Cartridge	American Optical	Will Supplement	Respirator
E-450 Cartridge	Enstern Safety	Will Supplement	Respirator
1504	Gerson	Will Supplement	Mask

(Please attach additional sheets if necessary)

Plaintiff's Silica Exposure and Product Usage

	Flainth	Fightiff's Suica Exposure and Froduct Usage	ict Usage
Specific Product Name	Manufacturer	Supplier	Product Description
Mask	Martindale	Will Supplement	Mask
Three Canned Sand Units	Bob Schmidt	Will Supplement	Pressure Blaster
Two Sandblast Pots	Kelco	Will Supplement	Pots
Airblast Tank	Pangborn	Will Supplement	Blast Tank
Sand Bag	Clark Sand	Will Supplement	Sand
Industrial Quartz	<b>Vaimin</b>	Will Supplement	Sand
Sand	Diamond Blast d/b/a Dependable Abrasives	Will Supplement	Sand
Black magnum	Fairmount Minerals Coal Slag Abrasives	Will Supplement	Sand

(Please attach additional sheets if necessary)

Plaintiff's Silica Exposure and Product Usage

nct Usage	Product Description	Blast Machines	Respirators	Blast Machine	Blasting System	Compressor	·	
Plaintiff's Silica Exposure and Product Usage	Supplier	Will Supplement	Will Supplement	Will Supplement	Will Supplement	Will Supplement		
Plaintiff	Manufacturer	Clemco	American Optical and Willson	Clemco	Schmidt Manufacturing	Sullair		
	Specific Product Name	Blast Machines	3 Dual Cartridge Respirators	"Mighty Mite" Model SCW 1028	Blast Pac	1500 Engine Compressor		

(Please attach additional sheets if necessary)

# Medical History

1. A	ny respiratory illness	disease or condition and each silica	a related illness, disease or condition
claim	ed by plaintiff:	Silicosis, asbestosis, sarcoidois a	nd coal workers pneumoconiosis

2. List the name and address of each physician who has seen plaintiff for each condition:

	<u>Name</u>	Address	Date(s)	Condition
a.	Dr. Ray Harron	P. O. Box 400 Bridgeport, WV, 26330	06/26/02	Silicosis, asbestosis and Coal workers pneumoconiosis
ъ.	Dr. Louis Neese	415 South 28th Ave.	12/07/00 03/11/02	sarcoidosis
c.	Dr. Parkman	Hattiesburg, MS	1983	sarcoidosis
d.	Dr. Reno	Hattiesburg, MS	1996	sarcoidosis

# (Please attach additional sheets if necessary)

3. List the name and address of each physician who diagnosed plaintiff with each condition:

	<u>Name</u>	Address	Date(s)	<u>Diagnosis</u>
a.	Dr. Ray Harron	P. O. Box 400 Bridgport, WV 26330	06/26/02	Silicosis, asbestosis and coal workers pneumoconiosis ILO 3/3

(Please attach additional sheets if necessary)

# Smoking History

Date(s)	Type/brand of tobacco product	Quantity (i.e. packs/day/ week)	Duration of use at that quantity
1930-1939			quantity
1940-1949			
1950-1959			
1960-1969			
1970-1979		-	
1980-1989			
1990-1999			
2000-Present			

List all other lawsuits in which you have been or are a party. Identify the law suit by style, civil action number, county in which it was filed/transferred and the name of your attorney.

George Buffington, et al v. Pulmosan Safety Equipment, et al. Case filed in Jones County Mississippi, Circuit Court Cause No.: 2002-194-cv6

#### DECLARATION

I declare that all the information provided in this Fact Sheet is true and correct to the best of my knowledge. If I recall or discovery additional information, I will promptly provide the information to supplement or correct these responses.

John Mª Gilberry

1-16-04

Date

Plaintiff Signature

Plaintiff's Representative

Printed Name

Sworn to and subscribed before me, this 10

day of Jandar

.2004

My.Commission Expires:

8-5-04

NOTAR NOTAR

INDS02 AJD 570975-1

# BUFFINGTON AMENDED PLAINTIFF FACT SHEET

					<u> </u>	
Backgro	und Inforn	ıstion				
Name: J	lohn McGill	berry.				
Address:			City:		State:	
D.O.B.		D.O.D		Cause of Death_		_
If you are	e completin a decessed	ig this questic person), plea	onnaire in a rep se complete the	resentative capac following:	city (i.e., on behalf of t)	he
Yo	our Name:_			· · · · · · · · · · · · · · · · · · ·	, , , , , , , , , , , , , , , , , , ,	
				lividua!:		
If :	you were ap	pointed by a (	Court, state the:			
	Court:			Date of A	ppointment:	
	capaci to the questi who w please	ity, please re person water person water person the as allegedly respond as	espond to the respond to the responding to the responding to the time in the responding to the respond	emaining quest edly exposed t or "Plaintiff" re ca. If the indiv	a representative ions with respect o silica. Those efer to the person idual is deceased, ior to his or her	
Plaintiff's	State and (	County of Re	sidence when al	legedly exposed t	o silica:	
	Data (a)			4		

Date(s)	State of Residence	County of Residence
1976 - 1985 1973 - 1976 1971 - 1973 1979 - 1980 1985 - 1987 1987 - 1990	Mississippi Mississippi Mississippi North Carolina Mississippi Mississippi	Jones Jones Jones Fayerville, N.C. Jones Jones





# Plaintiff's Employment History

 Employer Name: Nehi Plant Employer Address: Ellisville, M5 39440 Date(s) of Employment 1972

	Employer Address	S. EINSVIII	16. 213 39440	*	Ä	
	Jobsite Location (Including City/State)	Date(s)	<u>Trade or</u> Occupation	Identity of Contractor or Other Party at Jobsite Plaintiff Contends Responsible	Masks or Respirators Used (y/n)	Identification of All Products Used by Manufacturer. Model = or Other Information
а.	Laurel, MS	1972	Loading Trucks	Not claiming exposure at this site	Not claiming exposure at this site	Not claiming exposure at this site

2. Employer Name: Tom Pittman

Date(s) of Employment 1973 - 1974

Employer Address: Ellisville, Mississippi

					<del> </del>	
	Jobsite/Location (Including City/State)	Date(s)	Trade or Occupation	Identity of Contractor or Other Party at Jobsite Plaintiff Contends Responsible	Masks or Resourators Used (v/n)	Identification of Ali Products Used by Manufacturer. Model = or Other Information
a.	Ellisville, Mississippi	1972- 1974	Sandblaster helper and cement finisher	Do Not Recall At This Time	Yes	Pulmosan H-30 non-airfed hood, 3M 8500 Nuisance paper dust mask in box of 20, Cesco Black Shoulder Length hood with plastic facepiece, Eastern Safety Comfort Masks Code 348-2, Eastern Safety ALLPRO dust masks in box of 50, Standard Sand & Silica Co. 50 lb bag, Empire SuperBlast Blasting Machine (from

Empire SuperBlast
catalogue), Empire
SuperBlast 650
Blasting Machine
(from Empire
SuperBlast
catalogue),
Texblast-Lone Star
Industries, Souther
Silica "Blasting
Sand", Unimin
Industriai Quartz.
Pine Beit Ready
Mix sand, American
Sand and Gravel
sand, 3 M (Dusi
Mask), Quikrete
cement

3. Employer Name: Howard Industries

Date(s) of Employment 1975 & 1981 -

1983

Employer Address: Laurel, Mississippi

	Jobsite/Location (Including City/State)	Date(s)	<u>Trade or</u> Occupation	Identity of Contractor or Other Party at Iobsite Plaintiff Contends Responsible	Masks or Respirators Used (v/n)	Identification of All Products Used by Manufacturer. Model ≢, or Other
a.	Laurel, Mississippi	1975	Core Lacer	Not claiming exposure at this site	No	Information Not claiming exposure at this site
ъ.		1981 – 1983	Core Lacer	Not claiming exposure at this site		, and

Employer Address: Apex. Nonh Carolina

Inhair or	***				
Jobsite/Location	Date(s)	I rada as	1.3		- 1
SACOTION TOCOTION	4/5/11/21	I rade or	ldentity of	Masks or	idose Gasarias - S
				10 57521A	identification of

	(Including City/State)		Occupation	Contractor or Other Party a Jobsite Plaintiff Contends Responsible		IS All Products  Lised by  Manufacturer,  Model #. or  Other  Information
a.	Apex, N.C.	1979 - 1980	Laborer and cement finisher	Unknown	Yes	3M 8500 dust mask
5.	Employer Name: Employer Addres			Date(s	s) of Employs	nent 1983 - 1985
	Jobsite/Location (Including City/State)	Date(s)	Trade or Occupation	Identity of Contractor or Other Party at Jobsite Plaintiff Contends Responsible	Masks or Respirator Used (Mn)	
a.	Laurel, MS.	1983 – 1985	Truck Driver	Not claiming exposure at this site	Not claiming exposure a this site	Not claiming exposure at this
6.	Employer Name: Employer Address			Date(s	s) of Employn	nent 1985 - 1987
	Jobsite/Location (Including City/State)	Date(s)	Trade or Occupation	Identity of Contractor or Other Party at Jobsite Plaintiff Contends Responsible	Masks or Respirators Used (v/n)	Identification of All Products Used by Macufacturer, Model 2, or Other Information
a.	Laurel, MS.	1983 – 1985	Cement Finisher and Sandblaster Helper	Plaintiff does not recall at this time	Yes	Gerson 150! Nuisance Paper Dust Mask in box of 50, Norton 65306 Nuisance dust amsk in bag, Norton 65076 Nuisance Dust masks in package, Oxwall

DM5 Nuisance Paper dust mask in plastic bag of five, 3M 8715 Paper Dust and Mist Respirator in box of 20, 3M 8500 Nuisance Paper dust mask in box of 20, 3M 8651Es Nuisance Paper Dust mask in package, Eastern Safety Comfort Masks code 348-2, Eastern Safety ALLPRO Dust Masks in box of 50, Sanstorm sandblasting pot and equipment, Ottawa Silica Company "Flint Shot", Gerson 1501 mask, Clark Sand Bag, Sullair 150 Engine Compressor, Pine Belt Ready Mix sand and cement, American Sand and Gravel sand, gravel and cement, Walker Jones Equipment rental, Phillips Building Supply sand and cement, Quikrete cement

7. Employer Name: Southern Touch Employer Address: Laurel, MS. ET/isv://- Date(s) of Employment 1987 - 1991

			<u>Identity of</u>	<u>Masks or</u>	Identification of All
Johnita'I conting		Trade or	Contractor or	Respirators	Products Used by
Jobsite/Location	Date(s)	A .	Other Party at	<u>Used</u>	Manufacturer, Mode; #
(Including		Occupation	Jobsite	(y/n)	or Other Information
<u>City/State)</u>			Plaintiff		
			Contends		

				Responsible	·	
a.	Laurel, MS.	1987 – 1991	Sanderson Farms (truck driver)	Not claiming exposure at this site	Not claiming exposure at this site	Not claiming exposure at this site
8.	Employer Name: Employer Addres			Date(s)	of Employmer	nt 1991 - 1994
	Jobsite/Location (Including City/State)	Date(s)	Trade or Occupation	Identity of Contractor or Other Party at Jobsite Plaintiff Contends Responsible	Masks or Respirators Used (y/n)	Identification of Ail Products Used by Manufacturer. Model ≓, or Other Information
а.	Seminary, MS.	1991 – 1994	Sanderson Farms (truck driver)	Not claiming exposure at this site	Not claiming exposure at this site	Not claiming exposure at this site
9.	9. Employer Name: Victor Gibbs Date(s) of Employment 1994 - 1997 Employer Address: Bassville, MS					
	Jobsite/Location (Including City/State)	Date(s)	<u>Trade or</u> Occupation	Identity of Contractor or Other Party at Jobsite Plaintiff Contends Responsible	Masks or Respirators Used (v/n)	Identification of All Products Used by Manufacturer. Model = , or Other Information
2.	Bassville, MS.	1994 – 1997	Sanderson Farms (truck driver)	Not claiming exposure at this site	Not claiming exposure at this site	Not claiming exposure at this site
10.	. Employer Name: : Employer Address		MS	Date(s)	of Employmer	at 1997 - 2002
	Jobsite/Location (Including City/State)	Date(s)	Trade or Occupation	Identity of Contractor of Other Party a Jobsite Plainti Contends Responsible	it <u>Used</u> If (y/n)	
ē.	Laurel, MS.	1997 – 2002	Sanderson Farms (truck driver)	Not claiming exposure at th site	Not is claiming exposure	Not claiming exposure at this site at

					this site	
<ol> <li>Employer Name: B Employer Address:</li> </ol>	lush Con Laurel,	struction MS	Ĭ	Date(s) o	f Employment 1	992
City/State)	Date(s)	Trade or Occupation	Ident Contra Other P Jobsite F Contra Respon	arty at laintiff ends	Masks or Respirators Lised (y/n)	Identification of All Products Used by Manufacturer, Model #. or Other Information
a. Laurei, MS.	1992	Truck driver	Not claim exposure site	ing	Not claiming exposure at this site	Not claiming exposure at this site
12. Employer Name: Cit Employer Address: E	y of Ellis Illisville,	wille MS	De	ue(s) of	Employment 19	75 - 1976
City/State)	ate(s)	Trade or Occupation	<u>Identi</u> <u>Contrac</u> <u>Other P</u> <u>Jobsite P</u> <u>Conte</u> <u>Respo</u> n	tor or ariv at laintiff nds	<u>Masks or</u> <u>Respirators</u> <u>Used</u> . (v/n)	Identification of Ali Products Used by Manufacturer, Model E. or Other Information
•	76 h	ruck driver auling ousehold arbage	Not claim exposure site	ing	Not claiming exposure at this site	Not claiming exposure at this site
Specific Product Name H-30 Type Non-Airfed	701	Manufacti mosan	ıreř		Supplier	Product De
Hood	Fui	mosau	; •	Will St	ıpplement	Hood
R8210N95 Dust Mask	AO	Safety		Will St	1pplement	Mask :
4-1050 According Style Paper Dust Mask	Ām	erican Optica	al	Will St	applement	Mask

1501 Nuisance Paper Dust Mask in Box of 50	Gerson	Will Supplement	Mask
65306 Nuisance Dust mask in Bag	Norton	Will Supplement	Mask
65076 Nuisance Dust Masks in Package	Norton	Will Supplement	Mask
DM5 Nuisance Paper Dust mask in Plastic Bag of Five	Oxwall	Will Supplement	Mask
8500 Nuisance Paper Dust Mask, 8651 Nuisance Paper Dust mask, and other Paper Dust Masks	3M	Phillips Building Supply and Walker Jones Equipment Rental	Mask !
Black Shoulder Length Hood with Plastic Facepiece	Cesco	Will Supplement	' Hood
Filter-Mask code 335 with facelet	Eastern Safety	Will Supplement	.Mask
Dust Masks, reorder Number 947	Bondo	Will Supplement	Mask
Comfort Masks Code 348- 2	· Eastern Safety	Will Supplement	Mask
Specific Product Name	Manufacturer	Supplier	Product De
KA Kleen Airmask w/ Sanitary Face Cloth Code 505	Eastern Safety	. Will Supplement	Mask
Nuisance Dust masks Code 928-X in Box of 50	Eastern Safety	Will Supplement	Mask
ALLPRO Dust Masks in Box of 50	Eastern Safety	Will Supplement	Mask

Old Pulmosan Hood (dark)	Pulmosan	Will Supplement	Hood
BH-5 Red and Blue non- airfed hood	Empire	Will Supplement	Hood
Sand - 50lb bag	Standard Sand & Silica Company	Will Supplement	Sand
Star Blast Ultra Blasting Abrasive – 50lb bag	Dupont	Will Supplement	Sand :
Florida Zircon Sand - 50lb bag	Dupont	· Will Supplement	Sand
Filtrasand - 100lb bag	Texas Mining Company	: Will Supplement	Sand
Blastsand – 50lb bag	Texas Mining Company	Will Supplement	Send
Industrial Sand - 50lb bag	Texas Mining Company	Will Supplement	Sand
Industrial Sands – 50lb bag	Oglebay Norton	Will Supplement	: . Sand
Abrasive Pressure Blasters	Schmidt Manufacturing	Will Supplement	Pots
Specific Product Name	Manufacturer	Supplier	Product De
SuperBlast Blasting Machines	Empire	Will Supplement	Blasting Machin
SuperBlast 650 Blasting Machine	Empire	Will Supplement	Blasting Machin

		- Joment	Blasting Kit
11 020	Sanstorm	Will Supplement	
Packaged Units (1970 -			ı
1971 Sanstorm Bulletti			Blast Machines
No. 1213)		Will Supplement	Riggi Macmines
Blast Machines	Pauli & Griffin		•
Blazi Macimes	•		
		: Ti-mani	Sandblasting por
	Air Liquide / Sanstorm	Walker Jones Equipment	equipment
Sanstorm sandblasting pot	All Cidnies	Rental	*4t-
and equipment	•		
1 2		Pine Belt Ready Mix	Sand and cemen
	Pine Belt Ready Mix	Fine Bert Real;	
Sand and cement	•		•
	:		a Nilabing son
	1	Phillips Building Supply	Sandblasting sat
Sandblasting sand and	Will supplement	7 22	
cement			
• • • • • • • • • • • • • • • • • • • •			
	Manufacturer	Supplier	Product I
Specific Product Name	Humble	Will Supplement	Sand
Abresive Flint	: unumis	11 III Supplement	
·	•		
Flint Shot	Ottawa Silica Company	Will Supplement	Sand
Lone Star Industries	Texblast	49414	
wone dear manatries	1 evolusi	Will Supplement	Sand
		:	
Sand	, Specialty Sand Company	Will Supplement	Carat
		·· in Supprement	Sand
Blasting Sand		<del>-</del>	
Stading Sand	Southern Silica	· Will Supplement	; Sand
	•	- •	· weeks
- 1504	Gerson	37:11 51	
		Will Supplement	Mask
	•		
	_		

Page 1

IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI SECOND JUDICIAL DISTRICT

GEORGE BUFFINGTON, et al., Plaintiffs,

VERSUS

CIVIL ACTION NO. 2002-194-CV6

PULMOSAN SAFETY EQUIPMENT, et al.,
Defendants.

VIDEOTAPED DEPOSITION
OF JOHN E. MCGILBERRY
VOLUME I OF II

Taken at the Ramada Inn Conference Center, 1105 Sawmill Road, Laurel, Mississippi, on Monday, April 5, 2004, beginning at 10:41 a.m.

## REPORTED BY:

GERI BETH LADNER, CSR #1219 State-Wide Reporters 4400 Old Canton Road, Suite 201 Post Office Box 14113 (39236) Jackson, Mississippi 39211 Telephone: (601) 366-9676 Fax: (601) 366-9756

Coast Address:

764 Water Street
Post Office Box 389 (39533)
Biloxi, Mississippi 39530
Telephone: (228) 432-0770
Fax: (228) 432-0690

EXHIBIT "H"

## 

		Page :	2		Page
1	APPEARANCES:		1	Appearances: (Continued)	
_	JOHN A. FOXWORTH, JR., ESQUIRE Foxworth & Casano, P.A.		2	RANDI P. MUELLER, ESQUIRE	
	12311 Ashley Drive, Suite C		3	Page, Mannino, Peresich & McDermott 759 Vieux Marche' Mail	
	Gulfport, Mississippi 39503			Biloxi, Mississippi 39530	
	Telephone: (228) 328-0202		4	Telephone: (228) 374-2100	
	Fax: (228) 328-0201 ATTORNEY FOR PLAINTIFFS		١.	Fax: (228) 432-5539	
	JENNIFER I. SKIPPER, ESQUIRE		5	ATTORNEY FOR GREEN BROTHERS	•
	Forman, Perry, Watkins, Krutz & Tardy		6	GRAVEL COMPANY	
	Suite 1200, One Jackson Place		1 °	DAN ALEXANDER, ESQUIRE	
	188 E. Capitol		7	Allen, Vaughn, Cobb & Hood, P.A.	
	Jackson, Mississippi 39201		1	One Hancock Plaza, 12th Floor	
	Telephone: (601) 960-8600 Fax: (601) 960-8613		8	Gulfport, Mississippi 39501	
	ATTORNEY FOR CLEMCO INDUSTRIES, INC.;		9	Telephone: (228) 864-4011	
	CLARK SAND COMPANY, INC.; CLARK SALES		1 9	Fax: (228) 864-4852 ATTORNEY FOR LOUIS M. GERSON	
	& RENTALS, INC.; CUSTOM AGGREGATE &		10	COMPANY, INC.	
	GRINDING; DEVILBISS AIR POWER COMPANY;		11	SARAH A. CUNNINGHAM, ESQUIRE	•
	EASTERN SAFETY EQUIPMENT; HANSON AGGREGATES CENTRAL, INC.; HUEY		1	Wells, Moore, Simmons & Hubbard	
	STOCKSTILL, INC; HUMBLE SAND & GRAVEL;		12	4450 Old Canton Road, Suite 200	
	INGERSOLL-RAND COMPANY; ILLINOIS		13	Jackson, Mississippi 39211 Telephone: (601) 354-5400	
	TOOL WORKS, INC.; KELCO SALES &		1	Fax: (601) 355-5850	
	ENGINEERING COMPANY, a Division of		14	ATTORNEY FOR MINE SAFETY APPLIANCES	
	POLLEY, INC.; LAUREL MACHINE & FOUNDRY			COMPANY (MSA) and SCHRAMM	
	COMPANY; LOCKHEED MARTIN CORPORATION; MOLDEX-METRIC, INC.; OTTAWA SILICA		15		
	COMPANY; PANGBORN CORPORATION;		16	CHRIS WELLS, ESQUIRE Sessums, Dallas & Morrison	
	P.K. LINDSAY COMPANY; PRECISION		1 20	Sessums, Dallas & Morrison 2829 Lakeland Drive, Suite 1650	
	PACKAGING; SOUTHERN SILICA;		17	Jackson, Mississippi 39212	
	TRUMAN'S, INC.; and U.S. SILICA		1	Telephone: (601) 933-2040	
	COMPANY as successor by merger to Ottawa Silica Company		18	Fax: (601) 933-2050	
	a mana anna computy		19	ATTORNEY FOR VALLEN SAFETY	
	CHARLES W. FERGUSON, ESQUIRE		20	SUPPLY, INC. and VALLEN CORPORATION MARK SMITH, ESQUIRE	
	Baker, Donelson, Bearman & Caldwell		""	Holcomb Dunbar	
	4268 1-55 North Meadowbrook Office Park		21	1217 Jackson Avenue	
	Jackson, Mississippi 39211 Telephone: (601) 351-2400			Oxford, Mississippi 38655	
	Fax: (601) 351-2424		22	Telephone: (662) 234-8775	
	ATTORNEY FOR VULCAN MATERIALS		23	Fax: (662) 238-7532	
	COMPANY		1 * 3	ATTORNEY FOR BOB SCHMIDT/ SCHMIDT MANUFACTURING	
			24 25		
		Page 3	<del>                                     </del>		Page
	APPEARANCES: (Continued)	_	1	APPEARANCES: (Continued)	1490
	ASHLEY PLATT, ESQUIRE		2	BETH WINDHAM, ESQUIRE	
	Brown, Buchanan & Sessoms, P.A.		ı	Aultman, Tyner & Ruffin, Ltd.	
	3112 Canty Street Pascagoula, Mississippi 39567		3	315 Hemphill Street	
	Telephone: (228) 762-0035		4	Hattiesburg, Mississippi 39401 Telephone: (601) 583-2671	
	Fax: (228) 762-0299		`	Fax: (601) 583-2677	
	ATTORNEY FOR AIR LIQUIDE; SANSTORM;		5	ATTORNEY FOR PHILLIPS BUILDING	
	SURVIVAIR; BIG 3; and RENTAL		_	SUPPLY	
	SERVICE CORPORATION		6	MUNNI CINARD EFORIDE	
	ABEL MANJI, ESQUIRE		7	JOHN M. KINARD, ESQUIRE KEVIN MELCHI, ESQUIRE	
	Steve A. Bryant & Associates 3618 Mt. Vernon, Suite A			Dogan, Wilkinson, Kinard,	
	Houston, Texas 77006		8	Smith & Edwards	
	Telephone: (713) 526-7474		9	734 Delmas Avenue Pascagoula, Mississippi 39567	
	Fax: (713) 526-7720		,	Pascagoula, Aussissippi 39567 Telephone: (228) 762-2272	
	ATTORNEY FOR E.D. BULLARD COMPANY		10	Fax: (228) 762-3223	
	WILL MANUEL, ESQUIRE			ATTORNEYS FOR SCOTT AVIATION, INC.:	
	Brudley, Arant, Rose & White, LLP Suite 450, One Jackson Place		11	SCOTT TECHNOLOGIES: WHEELER PROTECTIVE	
	188 East Capitol Street		12	APPAREL; and AMERICAN SAND & GRAVEL	
	Jackson, Mississippi 39215			CORRIE SCHULER, ESQUIRE	
	Telephone: (601) 948-8000		13	Steen, Dalehite & Pace	
	Fax: (601) 948-3000	j	7.4	40) East Capitol Street, Suite 415	
	ATTORNEY FOR MINNESOTA MINING		14	Jackson, Mississippi 39201 Telephone: (601) 969-7054	
			15	Fax: (601) 353-3782	
	and MANUFACTURING COMPANY (3M)			ATTORNEY FOR RENT ALL OF	
	WRIGHT HILL, ESQUIRE			LAUREL, INC.	
	WRIGHT HILL, ESQUIRE Page, Kruger & Holland, PA		16	1 Blast Dilp Citable Trace-	
	WRIGHT HILL, ESQUIRE		16 17	L. IVAN BURGHARD, ESQUIRE	
	WRIGHT HILL, ESQUIRE Page, Kruger & Holland, PA 10 Canebrake Boulevard, Suite 200 Flowood, Mississippi 39232 Telephone: (601) 420-0333			L. IVAN BURGHARD, ESQUIRE Allen, Allen & Breeland	
	WRIGHT HILL, ESQUIRE Page, Kruger & Holland, PA 10 Canebrake Boulevard, Swife 200 Flowood, Mississippi 39232 Felephone: (601) 420-0333 Fax: (601) 420-033		17	L. IVAN BURGHARD, ESQUIRE Allen, Allen & Breeland 214 Justice Street Brookbaven, Mississippi 39602	
	WRIGHT HILL, ESQUIRE Page, Kruger & Holland, PA 10 Canebrake Boulevard, Suite 200 Flowood, Mississippi 39232 Telephone: (601) 420-0333 Fax: (601) 420-0033 ATTORNEY FOR SPECIALTY SAND		17	L. IVAN BURGHARD, ESQUIRE Allen, Allen & Breeland 214 Justice Street Brookbaven, Mississippi 39602 Telephone: (601) 833-4361	
	WRIGHT HILL, ESQUIRE Page, Kruger & Holland, PA 10 Canebrake Boulevard, Swife 200 Flowood, Mississippi 39232 Felephone: (601) 420-0333 Fax: (601) 420-033		17 18 19	L. IVAN BURGHARD, ESQUIRE Allen, Allen & Breeland 214 Justice Street Brookhaven, Mississippi 39602 Telephone: (601) 833-4361 Fax: (601) 833-6647	
	WRIGHT HILL, ESQUIRE Page, Kruger & Holland, PA 10 Canebrake Boulevard, Suite 200 Flowood, Mississippi 39232 Telephone: (601) 420-0333 Fax: (601) 420-0033 ATTORNEY FOR SPECIALTY SAND COMPANY and DFM EQUIPMENT		17	L. IVAN BURGHARD, ESQUIRE Allen, Allen & Breeland 214 Justice Street Brookhaven, Mississippi 39602 Telephone: (601) 833-4361 Fax: (601) 833-647 ATTORNEY FOR D&B SAND & GRAVEL	
	WRIGHT HILL, ESQUIRE Page, Kruger & Holland, PA 10 Canebrake Boulevard, Suite 200 Flowood, Mississippi 39232 Telephone: (601) 420-0333 Fax: (601) 420-0333 ATTORNEY FOR SPECIALTY SAND COMPANY and DFM EQUIPMENT KATHY B. VAN ZUTPHEN, ESQUIRE		17 18 19	L. IVAN BURGHARD, ESQUIRE Allen, Allen & Breeland 214 Justice Street Brookhaven, Mississippi 39602 Telephone: (601) 833-4361 Fax: (601) 833-6647	
	WRIGHT HILL, ESQUIRE Page, Kruger & Holland, PA 10 Canebrake Boulevard, Suite 200 Flowood, Mississippi 39232 Telephone: (601) 420-0333 Fax: (601) 420-0033 ATTORNEY FOR SPECIALTY SAND COMPANY and DFM EQUIPMENT	ŀ	17 18 19 20 21	L. IVAN BURGHARD, ESQUIRE Allen, Allen & Breeland 214 Justice Street Brookhaven, Mississippi 39602 Telephone: (601) 833-4361 Fax: (601) 833-647 ATTORNEY FOR D&B SAND & GRAVEL COMPANY, INC.  GRETA COCHRAN CROWLEY, ESQUIRE	
	WRIGHT HILL, ESQUIRE Page, Kruger & Holland, PA 10 Canebrake Boulevard, Suite 200 Flowood, Mississippi 39232 Telephone: (601) 420-0333 Fax: (601) 420-0633 ATTORNEY FOR SPECIALTY SAND COMPANY and DFM EQUIPMENT KATHY B. VAN ZUTPHEN, ESQUIRE Deutsch, Kerrigan & Stiles, LL.P. 2510 14th Street, Suite 1001 Gulfport, Mississippi 39501	ŀ	17 18 19 20	L. IVAN BURGHARD, ESQUIRE Allen, Allen & Breeland 214 Justice Street Brookhaven, Mississippi 39602 Telephone: (601) 833-4361 Fax: (601) 833-6647 ATTORNEY FOR D&B SAND & GRAVEL COMPANY, INC.  GRETA COCHRAN CROWLEY, ESQUIRE Daniel, Coker, Horton & Bell, P.A.	
	WRIGHT HILL, ESQUIRE Page, Kruger & Holland, PA 10 Canebrake Boulevard, Suite 200 Flowcod, Mississippi 39232 Telephone: (601) 420-0333 Fax: (601) 420-0033 ATTORNEY FOR SPECIALTY SAND COMPANY and DFM EQUIPMENT KATHY B. VAN ZUTPHEN, ESQUIRE Deutsch, Kerrigan & Stiles, L.L.P. 2510 14th Street, Suite 1001 Gulfport, Mississippi 39501 Telephone: (228) 864-0161		17 18 19 20 21	L. IVAN BURGHARD, ESQUIRE Allen, Allen & Breeland 214 Justice Street Brookhaven, Mississippi 39602 Telephone: (601) 833-4361 Fax: (601) 833-6547 ATTORNEY FOR D&B SAND & GRAVEL COMPANY, INC.  GRETA COCHRAN CROWLEY, ESQUIRE Daniel, Coker, Horton & Bell, P.A. 4400 Old Canton Road	
	WRIGHT HILL, ESQUIRE Page, Kruger & Holland, PA 10 Canebrake Boulevard, Suite 200 Flowood, Mississippi 39232 Telephone: (601) 420-0333 Fax: (601) 420-0033 ATTORNEY FOR SPECIALTY SAND COMPANY and DFM EQUIPMENT KATHY B. VAN ZUTPHEN, ESQUIRE Deutsch, Kerrigan & Stiles, L.L.P. 2510 14th Street, Suite 1001 Gulfport, Mississippi 39501 Telephone: (228) 864-0161 Fax: (228) 863-5278		17 18 19 20 21	L. IVAN BURGHARD, ESQUIRE Allen, Allen & Breeland 214 Justice Street Brookhaven, Mississippi 39602 Telephone: (601) 833-4361 Fax: (601) 833-4567 ATTORNEY FOR D&B SAND & GRAVEL COMPANY, INC.  GRETA COCHRAN CROWLEY, ESQUIRE Daniel, Coker, Horton & Bell, P.A. 4400 Old Canton Road Suite 400	
	WRIGHT HILL, ESQUIRE Page, Kruger & Holland, PA 10 Canebrake Boulevard, Suite 200 Flowcod, Mississippi 39232 Telephone: (601) 420-0333 Fax: (601) 420-0033 ATTORNEY FOR SPECIALTY SAND COMPANY and DFM EQUIPMENT KATHY B. VAN ZUTPHEN, ESQUIRE Deutsch, Kerrigan & Stiles, L.L.P. 2510 14th Street, Suite 1001 Gulfport, Mississippi 39501 Telephone: (228) 864-0161		17 18 19 20 21	L. IVAN BURGHARD, ESQUIRE Allen, Allen & Breeland 214 Justice Street Brookhaven, Mississippi 39602 Telephone: (601) 833-4361 Fax: (601) 833-6547 ATTORNEY FOR D&B SAND & GRAVEL COMPANY, INC.  GRETA COCHRAN CROWLEY, ESQUIRE Daniel, Coker, Horton & Bell, P.A. 4400 Old Canton Road	

			1-	
	Pag	∍ 6		Page 8
1 2	APPEARANCES: (Continued)		1	STIPULATION
	CHERI D. GREEN, ESQUIRE Brunini, Grantham, Grower & Hewes		2	
3	1400 Trustmark Building 248 E. Capitol Street		3	It is hereby stipulated and agreed by
4	Jackson, Mississippi 39201		1	and between the parties hereto, through their
5	Telephone: (601) 948-3101 Fax: (601) 960-6902		4	respective attorneys of record, that this
1	ATTORNEY FOR SAINT-GOBAIN		5	deposition may be taken at the time and place
6	ABRASIVES, INC. IN/10 NORTON COMPANY; NORTH SAFETY PRODUCTS, INC. IN/10		6	hereinbefore set forth, by Geri Beth Ladner,
7	SIEBE NORTH, INC.; and TEXTRON, INC.	:	7	Court Reporter and Notary Public, pursuant to
8	KIMBERLY P. WALLACE, ESQUIRE Barfield & Associates		8	the Mississippi Rules of Civil Procedure, as
9	233 East Capitol Street		9	amended;
10	Jackson, Mississippi 39201 Telephone: (601) 968-9420		10	That the formality of reading,
11	Fax: (601) 968-9425	1	11	signing, is specifically NOT WAIVED;
1	ATTORNEY FOR LONE STAR INDUSTRIES, INC.	-	.2	That all objections, except as to the
12	Chici at Len Fee econde	ł	3	form of the questions and the responsiveness of
13	KRISI ALLEN LEE, ESQUIRE Watkins & Eager, PLLC	1	4	the anguiors are recovered until and it
14	400 East Capitol Street, Suite 300 Jackson, Mississippi 39201	1		the answers, are reserved until such time as
	Telephone: (601) 948-6470	1	5	this deposition, or any part thereof, may be
15	Fax: (601) 354-3623 ATTORNEY FOR SHERWIN-WILLIAMS and	1	6	used or is sought to be used in evidence.
16	PINE BELT READY MIX	1	. 7	
17	ROBERT X. LOUYS, JR., ESQUIRE Hopkins, Barvie' & Hopkins, PLLC	1	L8	
18	2701 24th Avenue	1	9	
19	Gulfport, Mississippi 39501 Telephone: (228) 864-2200	\$	0.9	
20	Fax: (228) 868-9358	<u></u>	21	
	ATTORNEY FOR BACOU-DALLOZ SAFETY, INC.	2	22	
21 22		þ	23	
23		- 1	24	
24 25			25	
	-			
	Page	7		Page 9
1 2	T-A-B-L-E O-F C-O-N-T-E-N-T-S		1	MR. MANUEL:
3	Examination by: Page Mr. Manuel 13		2	Before we begin this deposition, my
4	Exhibits:		3	name is Will Manuel. I represent 3M. I'd like
5	Exhibit 1, Buffington Plaintiff	- 1	4	to just state a couple of things for the record.
	Fact Sheet Concerning John		5	As you know, in this case, the
6 7	McGilberry 13		6	Buffington case, plaintiffs' counsel is required
'	Exhibit 2, Buffington Plaintiff Fact Sheet Concerning John		7	to complet the defendants with a substitute of
8	McGilberry 13			to supply the defendants with completed fact
9	Exhibit 3, Buffington Amended	1	8	sheets that were discussed and established by
	Plaintiff Fact Sheet Concerning		9	Judge Starrett.
10	John McGilberry 13	ŧ	0	It's the intent of these fact sheets,
11 12	Exhibit 4, Diagram 106 Exhibit 5, Declaration Page	3	1	from my understanding, to allow the defendants
~	Concerning John McGilberry 172	1	2	to properly prepare for the depositions as
13	Conserring John McChoolly 1/2	1	3	they're taken, even to the point of certain
	Stipulation 8	1	4	defendants relying on the fact sheets as to
14		- 1	5	whether they are to be included as defendants in
1 5	Certificate of Reporter 179		6	this specific litigation of this plaintiff or
15	Witness Signature Sheet 180		7	not.
16			8	
17			9	In this case, we were provided with
18				an initial fact sheet that had a number of work
19		20		sites and products named. Then, we were
∠U 21		21 1		provided with a supplemental fact sheet. Both
20 21 22 23 24		22		of those, to be fair, were provided in advance
23		23		of the depositions, but are different in certain
24		24		aspects.
25		25	5	Then, today, at the right before
McCodellin See	Andrew Control			

Page 10 Page 12 1 the deposition, we were provided by Mr. Foxworth MS. GREEN: 2 with yet a third fact sheet that I am attaching 2 John, am I correct that the amended 3 as Exhibit 3, with the first two fact sheets 3 fact sheet presented today is the only one we 4 being I and 2. And this is entitled the 4 need to review, that --5 Buffington Amended Plaintiff Fact Sheet and, yet 5 MR. FOXWORTH: 6 again, changes the information that is included. 6 Correct 7 As Mr. Foxworth has pointed out with 7 MS. GREEN: 8 regard to my client, 3M, they are still listed 8 -- Number 1 and Number 2 have been 9 as a defendant. But I think the intent of the 9 taken off the table? 0 fact sheets, if this is going to be a continuing 0 MR. FOXWORTH: 1 process, that we are going to have to show up at 1 Correct. 2 the depositions to see whether you're named as a 2 MR. MANUEL: 3 defendant or not, that completely does away 3 And the amended fact sheet, as 4 with what we hoped to achieve by having the Ms. Green points out, is going to be Exhibit 3 5 plaintiffs fill out the fact sheets. 5 to the deposition. 6 I will point out that the fact sheet 6 Despite our objection, and in the 7 we received today was the first time that we had 7 interest of moving forward and in the interest 8 a new work site listed, which is Daniel 8 of cooperation in the discovery process, 3M 9 Construction in Apex, North Carolina from 9 will -- we will continue to go forward with the 1979 to 1980. And, interestedly enough, that 20 20 deposition today. 21 the only products listed to be used in that MR. FOXWORTH: 21 22 construction is 3M, at that new work site. But. 22 In an effort to maintain the billing 23 yet, we did not have this work site at all ∮3 process. 24 listed in either of the two fact sheets before 4 MR. MANUEL: 5 5 You can go ahead and get on the --Page 11 Page 13 1 I think it was clear that did you make sure to get that last one? No, 1 2 Judge Starrett said that we are to rely on 2 just kidding. these, and, if there were any changes to the 3 3 (Exhibits 1, 2 and 3 were defendants or work sites or anything with regard 4 4 marked.) 5 to the facts requested in those fact sheets, it 5 VIDEO TECHNICIAN: 6 better be a big surprise to Mr. Foxworth. 6 This is the videotape deposition 7 Obviously, these aren't surprises because he's 7 of John McGilberry taken by counsel for the 8 had the time to formulate these new amended fact 8 defendants in the matter of George Buffington. 9 sheets, and yet, we're only provided with the 9 et al. versus Pulmosan Safety Equipment, et al., 0 newest one on the date and the -- within minutes 0 in the Circuit Court of Jones County. 1 before the beginning of the deposition. 1 Mississippi, Second Judicial District, Civil 2 3M would like to reserve the right to Action Number 2002-194-CV6. 2 3 continue this deposition. To the effect that it 3 Today's date is April 5th, 2004. The needs anything that shows up in the new amended 4 4 time is 10:41 a.m. fact sheet, we'd like to be able to continue the 5 The court reporter may now swear in 5 deposition, since we did not have time to -- to 6 6 the witness. 7 adequately prepare for it. And we'd like to 7 JOHN E. MCGILBERRY reserve the right to file any motions to seek 8 8 having been duly sworn, was examined 9 other relief as a result of what 3M believes is 9 and testified as follows: a violation of the Court's order. 20 **EXAMINATION** MS. WINDHAM: 21 BY MR. MANUEL: 2 Beth Windham of Aultman, Tyner joins 22 O. Mr. McGilberry, my name is Will in the objection. Manuel. We met just briefly outside the room 23 MR. FOXWORTH:  $\frac{7}{2}$ 4 today before your deposition. I represent 3M Corporation, and I'm going to be taking your Noted.

25

	Page 1	4	Page 16
1	deposition today.		1 1990s that you gave that deposition?
2	Have you ever given a deposition		2 A. Yes, sir.
3	before?		3 Q. Well, I'm just going to go over a
4	A. Yes.		4 couple of rules not rules, just things to
5	Q. Okay. What what kind of case were		5 tell you.
6	you involved in in which you gave a deposition?		6 I'm going to be asking you some
7	A. I had an accident driving a truck.		questions today. And I'm going to try and make
8	Q. Okay. Were you named as a defendant		8 it move along as quickly as possible. But I
9	in that, or were you suing somebody else?	Ŧ	9 want you to feel comfortable. If you need a
10	A. No. I was the defendant.	- 1	break at all during the deposition, if you need
1	Q. The defendant.	1	to step out or go to the rest room, get
12	Who were you working for at the time	1	something to drink or just rest, I hope you'll
13	that you gave that deposition?		just tell me that you need to take a break, and
4	A. SRT.		4 I'll be glad to do that for you. Is that okay?
15	Q. Did was were you named	t	5 A. Yes, sir.
16	individually as a defendant in that case? Did	- 1	Q. And I'm going to be asking questions,
7	they name you, Mr. McGilberry, as a defendant?		7 and I hope that they're going to be clear
18	A. I think me and the company I was	1	
19	driving for.	- 1	at times I tend to get all, my words all mangled
20	Q. Where do you remember who it was	20	
21	that took your deposition?	2:	I , , , , , , , , , , , , , , , , , , ,
₽2	A. No.	22	
<b>⊉</b> 3	Q. Where was your deposition taken?	23	
2∤4	A. New Orleans.	1/2	3 5 15 11 11 11
25	Q. Did you suffer any injuries in that	25	
	Page 1	+	Page 17
I	accident?		
2	A. No.	2	make it a lot simpler; is that fair?
3	Q. Have you given any depositions other	3	1, .=
4	than that deposition involving the accident at	4	· - · · · · · · · · · · · · · · · · · ·
5	SRT?	5	
6	A. No.	6	1
7	Q. Have you been in any have you ever	17	,
8	testified at trial?	8	
9	A. No.	9	1
Lo	Q. All right. Well, I'm sure how	$\frac{1}{10}$	
11	long ago was it that you you had the	$\frac{1}{1}$	
2	deposition for SRT?	$\frac{1}{2}$	
3	A. Oh, I'm trying to figure up, because	13	· · · · · · · · · · · · · · · · · · ·
4	I've been off I've been off work for about	$\frac{1}{4}$	
.5	three, four years. And it happened right as I	15	either one of us if we start interrupting each
6	first started working for them. So I	16	in the second se
.7	Q. When you first started working for	17	[ ]
8	SRT?	18	and the state of t
9	A. Yeah. I worked for them five years.	19	
0	Q. Okay. Off of your what's	20	, , , , , , , , , , , , , , , , , , ,
1	Exhibit 3, the amended plaintiff fact sheet, I	Ž1	A. John E. McGilberry.
2	think it shows that you worked for SRT from 1997	‡± 22	
:3	to 2002. Does that sound about right?	23 23	A. El Elwin Elman, E-L-M-A-N.
4	A. Yes, sir.	‡3 24	Q. E-L-M-A-N?
5	Q. So it would have been in the late	1	A. Yes, sir.
	C. SSITE TO BE INTO OVER IN THE RAIL	47	л. 105, 5II.

ĺп	Page		Page 20
1 2	Q. What's your address, Mr. McGilberry? A. 809 McManus, that's M-C-M-A-N-U-S.	,	A. All right.
3	A. 809 McManus, that's M-C-M-A-N-U-S, Street, Ellisville, Mississippi.	- F	Q. Do you have any nicknames that you go
4		1	B by?
5	Q. How long have you lived there on McManus Street?	4	
6	A. About forty-three years.	1	, , , , , , , , , , , , , , , , , , ,
7	Q. Forty-three?		,
8	A. Yeah.	8	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
9	Q. Who lives there at McManus Street	ł	
ĺ	with you?	1 9	
1	A. Me and my wife.	10	<u> </u>
12	Q. What's your wife's name?	11 12	
13	A. Paula.	13	
$\frac{1}{4}$	Q. How long have y'all been married?	- 1	, j
5	A. About 28 years.	14 15	, 8
16	Q. Were you married at all before Paula?	ł	C j
17	A. No.	$\frac{16}{17}$	,
[8	Q. She's your only wife?	18	,
9	A. Yes, sir.	†°	-,
20	Q. Do you have any children?	20	Control of the Person of the P
21	A. Five girls.	- 1	<b>9</b>
$\frac{1}{2}$	Q. Five girls?	21 22	A. Yes, sir.
22 23	A. Yeah.	23 23	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
24	Q. So the wedding bill is going to be	į	
‡5	pretty extensive for you?	24 25	)
<del>-</del>	protey extensive for you:	1	A. South Jones High.
	Page 1	.9	Page 21
1	A. No.	1	Q. Did you graduate from South Jones?
2	Q. Okay. Do any of your girls live	2	A. Yes, sir.
3	there with you?	3	Q. What year did you graduate?
4	A. I've got one daughter stay with me	4	A. '73.
5	now.	5	Q. Did you go to any school after
6	Q. And what's her name?	6	South Jones?
7	A. Courtney McGilberry.	7	A. No, sir.
8	Q. And how old is she?	8	Q. Have you had any vocational training
9	A. Twenty-two.	9	or any vo-tech or
10	Q. Is she a dependent of yours? Do you	10	A. I took drafting in in high school
11	support her financially? I mean, I guess let's	11	at vo-tech.
12	say more than just a normal father would? I	12	Q. Okay. But since you left vo-tech
13	mean, do you do you have do you list her	13	I mean, since you left high school, have you had
14	as a dependent on your taxes?	14	any other classes or formal training?
15	A. No.	15	A. No, sir.
16	Q. Okay. Does she work?	16	Q. Okay. I want to ask you some
17	A. Yes, sir.	17	questions about places that you've worked. And
18	Q. But she doesn't have to pay rent?	18	we've got the the latest and greatest fact
19	A. Yeah.	19	sheet from your attorney.
20	Q. Oh, she pays you rent?	20	MR. FOXWORTH:
21	A. Yeah.	21	I'm glad you think it's the greatest,
22	Q. That's a pretty good deal.	22	Will.
23	Okay. I'm going to ask you some	2/3	MR. MANUEL:
24	questions about some of your other children a	24	Q. The on this fact sheet, it's got
25	little later on.	25	that the first place that you worked was the

	Page 2	22		Page 24
1	Nehi Plant in Ellisville?		1	Q. Did you did you do any
2	A. Yes, sir.		2	sandblasting at Tom Pittman yourself?
3	Q. Okay. And that would started in		3	A. Well, I tried it once.
4	1972? Is that correct?		4	Q. Okay. The one time that you tried
5	A. Yes, sir.		5	it, is that the only time you actually did
6	Q. Were you still in high school at the		6	sandblasting at Tom Pittman?
7	time you worked there?		7	A. Yes, sir.
8	A. Yes, sir.		8	Q. But you were were you around
9	Q. Were you around any sandblasting at		9	sandblasting other than that one time that you
10	the Nehi Plant?	1	Ó	tried it at Tom Pittman?
$I_1$	A. No.	1	1	A. Yes, sir.
12	Q. And were you did you were you	- 1	2	Q. And it says on here a cement
3	involved with any concrete finishing or any		3	finisher. What was your job as a cement
4	concrete work at the Nehi Plant?		4	finisher at Tom Pittman?
5	A. No, sir.	1	5	A. Well, we finished the concrete when
Ī 6	Q. So are you claiming any exposure to	1	6	it was poured.
Ī7	silica while you worked at the Nehi Plant?		7	Q. All right. And I'm just going
[8	A. No, sir.	Į.	8	through these very quickly right now, and I'll
Ĭ9	Q. And is that Nehi, that's the	- 1	9	probably come back and ask some more detailed
20	like the grape and orange drink, Nehi?		0	questions about
‡1	A. Yeah.	Ī		A. Can I get some water?
<b>1</b> 2	Q. Okay. Did you get free Nehi when you	\$		Q. Oh, sure. Do you want to keep going
22 23	worked there?	Į	3	while while she gets you your water?
24	A. All you can drink.	þ		A. Okay. Yeah.
25 25	Q. The next place that's listed is	Ź		Q. We'll just that will make it go a
<del>-</del>		-	<u>.                                    </u>	
1	Page 2		7	Page 25 little faster.
2	Tom Pittman. And it says you worked there from '73 to '74.		1 2	MR. FOXWORTH:
3		- 1	2 3	
4	And it lists on here that you were a sandblaster helper and cement finisher. Is that	- 1		If y'all will hold on one second MR. MANUEL:
5	the only types of jobs that you did for Tom		4 5	
6	Pittman?		<i>5</i>	Okay.
7	A. Well, construction, you did a little		7	Q. Okay. The next place that's listed
8	of everything.	1	, 8	is Howard Industries. And it says you worked
9	Q. Did you so you were around	- 1	9	there, I guess, for the first time in 1975; is that correct?
0	sandblasting at Tom Pittman?	Į.	9	
1	A. I was we had one job that I did	- 1	1	A. Yes, sir. Q. And, also, in 1981 to 1983?
2	sandblasting with.	- 1	2	A. Yes, sir.
3	Q. And where was that job?		3	<i>*</i>
4	MR. FOXWORTH:		ر 4	
5	Now, he's not talking about the	,	5	were there, were you did you do any sandblasting at Howard Industries?
6	sandblasting you did. He's talking about if you	- 1	5 6	
7	were around it.		o 7	A. No, sir.
8	MR. MANUEL:		, 3	Q. Were you around any sandblasting at
9	Q. Or if you did it, I guess, yeah,	10		Howard Industries in 1975?
20	that's a			A. I don't know.
21	MR. FOXWORTH:	20		Q. Don't know?
22	Either one.	<u>}</u>		A. Don't know.
23	MR. MANUEL:	22 23	<u>.</u>	Q. But you don't remember being around
24	Q. Did you do sandblasting, as well?	24		any sandblasting in 1975?
25	A. No, sir.	2		A. No, sir.
	ra inu, su .	45	ر	Q. Were you involved in any sort of

Г	Page 2	6	Page 2
1	concrete work at Howard Industries in 1975?		Page 2
2	A. No, sir.	1 2	Daniel Construction?
3	Q. How about in the time period that you	3	A. No, sir.
4	worked from '81 to '83 at Howard Industries, did	1	Q. Were you around any sandblasting at Daniel Construction?
5	you do any sandblasting then?	5	
6	A. That's the second time I was there?	6	A. I wasn't around no sandblasting, but
7	Q. Yes, sir.	7	l was around a lot of sand.
8	A. No, sir.	ı	Q. Okay. How were you around a lot of
9	Q. Did you were you around any	8	sand with Daniel Construction?
lo	sandblasting the second time that you were at		A. Well, on one of the some of the
1	Howard Industries?	10	jobs we had, we had to patch holes. And you had
2	A. No, sir.	11	to mix the cement and the sand together, you
13	Q. Did you do any sort of concrete work	13	know, to patch the holes.
4	at Howard Industries from 1981 to '83?	1	Q. Okay. Did is that you had
5	A. No, sir.	14	listed on here that you were a laborer and
6	Q. So is it fair to say that you're not	16	cement finisher. Is that the type of work that
17	claiming any exposure to silica at Howard	17	you were doing as a cement finisher, mixing the
8	Industries either of the times that you worked	T:	sand and the concrete together?
9	there; is that correct?	18	A. No. When it was my time to mix it, that's that's when I mixed it.
20	A. Yes, sir.	20	
21	Q. Okay. All right. The next one is,	21	Q. What type of concrete work did you do
22	listed on here is Daniel Construction?	‡± 22	while you were at Daniel Construction?  A. Finish concrete.
23	A. Yes, sir.	23	
₹4	Q. And you worked there from 1979 to	24	Q. Did you do any breaking up of concrete at all?
Ţ. 25	1980?	25	A. Yes, sir.
<u> </u>			
١,	Page 27		Page 29
2	A. Yes, sir. It will be two years.		Q. The next place listed is
3	Q. What did you do between 1975, when	2	Sanderson Farms from 1983 to 1985. Did you
4	you were at Howard, and 1979, when you were at Daniel Construction?	3	go was there anywhere that you worked in
5	A. When I was at Howard's, I was a a	4	between Daniel Construction and Sanderson Farms?
6	lacer and a crew leader.	5	A. No, sir.
7	Q. Okay. I was just because, on	6 7	Q. All right. Were you off work anytime
8	here, it lists that you were only you were at	8	between that time, or did you go directly  A. Daniel Construction and Sanderson?
9	Howard Industries the first time just for 1975.	9	
lo	Did you only work there one year, the first time	10	Q. Yes, sir. A. I was Howard, Howard
ĺ	you were there?	1	Q. Oh, you went back to Howard.
2	A. No, I I think the when I left	$\frac{1}{2}$	A. Yes.
3	and went to Daniels, I had left Howard then.	13	Q. Okay. That was the time you went
4	Q. Okay. So there's not a there's	$\frac{1}{4}$	back to Howard. I'm sorry.
.5	not a lag a lag time in between there? When	15	A. Yes.
6	you left Howard was when you went to go work	16	Q. And worked from '81 to '83. Thank
7	for	7	you for pointing that out.
8	A. Right.	8	At Sanderson Farms, your job was a
9	Q Daniel Construction?	9	truck driver?
20	A. Right.	20	A. Yes, sir.
21	Q. Okay. And at Daniel Construction, it	21	Q. So you did not do any sandblasting at
2	has listed here that your job was a laborer and	22	Sanderson Farms from '83 to '85?
23	cement finisher; is that correct?	23 23	A. No, sir.
		r -	
24	A. Yes, sir.	24	O. And you did not do you were not
		24 25	Q. And you did not do you were not around any sandblasting at Sanderson Farms from

	Page	30	Page 32
1	1983 to 1985?		1 A. Uh-huh.
2	A. No, sir.	1	Q. But as far as handling the
3	Q. Did you do any concrete work at	3	sandblasting hose yourself, you didn't do that
4	Sanderson Farms between 1983 and 1985?	F	at Gordon Myrick?
5	A. No, sir.	- 1	A. Like help him get it out, you know,
6	Q. So is it fair to say that you do	- 1	to where he's going to start.
7	not you're not claiming exposure to silica at	ł	Q. But but actual sandblasting
8	Sanderson Farms from 1983 to 1985?	ì	A. No, sir.
9	A. Yes, sir.	,	Q you didn't do any actual
10	Q. The next place listed is H. Gordon	1	sandblasting
11	Myrick from 1985 to 1987. And it says on on		A. No, sir.
12	this fact sheet that you well, one place, it		Q. – at Gordon Myrick?
13	says you worked there from '85 to '87. And in		Is the pot tender job that you had
14	another place, it says you worked from '83 to	ı	the being around sandblasting at Gordon Myrick?
15	'85. Did you go to work at Gordon Myrick after	[:	0
16	Sanderson Farms?	1	,
17	A. Yes, sir.	$I_{\overline{z}}$	A. Yes, that one spot, one time.
18	Q. Was there anywhere else that you	18	in the state of th
19	worked in between the two?	$\frac{1}{2}$	
	A. No, sir.	20	Coldon
⊉0 ⊉1	Q. Okay. Do you think it was so	21	Service Special value of a your do as
22	and I'll I'll maybe get with your attorney at	22	•
23	the break and figure out, because it lists '85	23	
24	to '87 on one spot, and then '83	$\frac{1}{2}$	2
25	MR. FOXWORTH:	Į 5	
	Page 3		Page 33
1	You I think	_	
2	MR. MANUEL:	1	C Joseph and Emporarie Of
3	Q to '85. Yeah.	3	the state of the s
4	MR. FOXWORTH:	1 .	p
5	he's probably the better person to	5	Comment paradition
6	answer that.	- 1 -	· · ·
7	MR. MANUEL:	6	or and amaner pours.
8	Q. Okay. Does it you worked if		Q. Okay.
9	you worked from Sanderson Farms to '83 to '85,	8	A. Something you can, you know, do
10	is it your recollection that you worked at	9	without having problems.
1	Gordon Myrick from '85 to '87? You didn't work	10	Q. Some of the smaller pours, talking about a
2	two jobs at once, did you?	12	A. Yes.
3	A. No, sir.	13	
4	Q. Okay.	14	Q large size pour versus a smaller
5	A. Not then.	15	pour?
6	Q. Okay. So there wasn't a time that	$\frac{15}{16}$	A. Right.
7	you worked at both Sanderson Farms and Gordon	17	Q. And the next place we have listed is
8	Myrick at the same time?	18	Southern Touch in Laurel from 1987 to 1991?
9	A. No, sir.	19	A. That should be Ellisville.
20	Q. All right. And at Gordon Myrick, it	20	Q. Okay. Ellisville?
21	has your trade listed as a cement finisher and	21	A. Yes, sir.
22	sandblast helper. Did you do any sandblasting	,	Q. And you worked as a truck driver for Southern Touch?
23	yourself at Gordon Myrick?	22 23	Į.
4	A. I was a pot, pot tender.	24	A. Yes, sir.
:5	Q. Pot tender?	25 25	Q. Did you do any sandblasting at
	C. I or folion:	43	Southern Touch?

	Page	4	Page 36
1	A. No, sir.	1	Q. The next place listed is Victor
2	Q. Were you around any sandblasting at	2	Gibbs. It also says there that you worked as a
3	Southern Touch?	3	truck driver; is that correct?
4	A. No, sir.	4	A. Yes, sir.
5	Q. Did you do any cement or concrete	5	Q. So you don't believe that you were
6	work at Southern Touch?	6	exposed to silica while you were working at
7	A. Now, Southern Touch and and	7	Victor Gibbs; is that correct?
8	and and H. Gordon Myrick, now, I was working	8	A. No, sir.
9	both jobs at the same time.	9	Q. That's not I mean, you were not
10	Q. Okay.	10	exposed to silica at Victor Gibbs?
11	A. One of them was a weekend job, and	Ĭi	A. I don't think so.
2	one of them was like Gordon Myrick was, you	12	Q. You don't think so. And is the only
3	know, five days. And Southern Touch was the	13	job you had for Victor Gibbs was driving a
	just the weekend.	$\frac{1}{4}$	truck?
14	Q. And it has you listed for Southern	15	
			A. Yes, sir.
16	Touch that you were a truck driver?	16	Q. All right. Getting close.
17	A. Yes, sir.	17	A. All right.
18	Q. Is that the only job you had at	18	Q. The next place listed was SRT?
19	Southern Touch was driving a truck?	19	A. Uh-huh.
20	A. I loaded trucks, too.	20	Q. And did you also do a did you also
21	Q. Okay. So, but you didn't do any	21	drive a truck for SRT?
22	concrete work for Southern Touch. You may have	22	A. Yes, sir.
23	done some work for Gordon Myrick	23	Q. Did you do any sandblasting for SRT?
24	A. Gordon Myrick.	24	A. No, sir.
25	Q at the same time?	25	Q. Okay. Did you do any sort of
	Page 3	5	Page 37
1	A. Yeah, when I was working with both of	1	concrete work while you were at SRT?
2	them.	2	A. No, sir.
3	Q. Okay. But as far as for Southern	3	Q. So you're not claiming any you
4	Touch, you didn't do any concrete work?	4	weren't exposed to silica while you worked for
5	A. No, sir.	5	SRT; is that correct?
6	Q. Okay. The next place listed is	6	A. Well no, sir.
7	Pauline Moore?	7	Q. Okay. You're not you're not
8	A. Yes, sir.	8	claiming you're not claiming silica?
9	Q. And did you also work as a truck	9	A. (No verbal response.)
10	driver for Pauline Moore?	10	COURT REPORTER:
11	A. Yes, sir.	11	No?
12	Q. Did you do any sandblasting for	12	THE WITNESS:
13	Pauline Moore?	13	No.
4	A. No, sir.	$\overline{1}_4$	MR, MANUEL:
5	Q. Did you were you around any	Į5	Q. The next place that we have listed is
16	sandblasting at Pauline Moore?	16	Bush Construction. And it says there that you
7	A. No, sir.	17	also worked as a truck driver?
[8	Q. And how about concrete or cement	18	A. Yes, sir.
19	work, did you do any concrete or cement work for	19	Q. Again, no you weren't around any
20	Pauline Moore?	20	sandblasting or concrete work for Bush
21	A. No, sir.	‡1	Construction?
1	Q. So you're not claiming any silica	22	A. All we did, we hauled sand.
タク		4-4	71. Fill we did, we hand said.
22 93		φа	O Hauled cand?
23	exposure while you worked for Pauline Moore; is	23	Q. Hauled sand?
		23 24 25	<ul><li>Q. Hauled sand?</li><li>A. Yes, sir.</li><li>Q. But were you ever actually around any</li></ul>

	Page	38	Page 4	_ 0
1	sandblasting that went on while you were driving	- 1		
2	the truck?	2	•	
3	A. No, sir.	3		
4	Q. Were you around any concrete work	4		
5	while you were driving the truck for Bush	5		
6	Construction?	6		
7	MR. FOXWORTH:	7		
8	Around in the sense outside the truck	8	2 y y	
9	doing it or	9	•	
10	MR. MANUEL:	10		
$\begin{bmatrix} 1 \\ 1 \end{bmatrix}$	Q. Yeah, outside the truck doing it.	11	A. No, sir.	
12	Were you outside the truck doing any concrete	12		
13	work while you worked for Bush Construction?	13	, , ,	
		•	•	
14	A. No, sir.	14	A. Hattiesburg, Mississippi.	
15 16	Q. And the last place we've got listed	15	Waynesboro, Mississippi. Raleigh, Mississippi.	
	on here is the City of Ellisville. And it has	16	And we did some work up there in	
17	listed on here that you also did you were a	17	Laurel, Mississippi. And Bay Springs,	
18	truck driver for the City of Ellisville?	18	Mississippi. And State Line. It's it's in	
19	A. Yes, sir.	19	Mississippi.	
20	Q. No you didn't do any sandblasting	20	Q. Right. It's down there by near	
21 22	while you were driving the truck?	21	A. Near Waynes	
¥2	A. No, sir.	22	Q near Leakesville and Waynesboro?	
<b>‡</b> 3	Q. And you weren't doing any concrete	23	A. No, near near Waynesboro.	
24	work while driving the truck for the city?	24	Q. Near Waynesboro.	
25	A. No, sir.	25	What sort of things were y'all	į
	Page 1	39	Page 41	١.
1	Q. So is it tell me if I'm correct	1	building for Tom Pittman?	į
2	that the places that you were that you're	2	A. Buildings, pouring slab.	i
3	claiming that you may have been exposed to	3	Q. Were these commercial buildings or	
4	silica would have been at Tom Pittman?	4	or residences?	
5	A. Yes, sir.	5	A. Commercial buildings.	ļ
6	Q. Daniel Construction?	6	Q. And was the work that you did for	
7	A. Yes, sir.	7	Pittman mainly on the slab stuff?	ı
8	Q. Gordon Myrick?	8	A. Yes, sir.	1
9	A. Yes, sir.	9	Q. Were you involved in any construction	
lo	Q. And those are the only places that	10	after the slab was laid for Tom when you	
1	you're claiming that you were exposed to silica?	$\vec{1}_1$	A. Yes, sir.	ı
2	A. Yes, sir.	12	Q when you were working for	
.3	Q. All right. Are you okay? Do you	13	Tom Pittman?	
4	need to take a break or anything?	$\frac{1}{4}$	A. Yes, sir.	
5	MR. FOXWORTH:	15	Q. You mentioned when I we were	1
1.6	Do you need to go to the restroom?	16		
7	A. Yeah, please.	17	talking earlier that that was the one job that	
.8	VIDEO TECHNICIAN:	1	you actually did try some sandblasting on; is	ł
		18	that correct?	١
.9 20	Off the record. The time is 11:06.	19	A. Yes, sir.	-
20	(Off the record.)	20	Q. Do you remember where you were when	4
21	VIDEO TECHNICIAN:	21	you actually tried to do the sandblasting, what	
22	Back on record. The time is 11:15.	22	location? Or what city?	
23	MR. MANUEL:	23	A. I think I left one name out,	
24 25	Q. Mr. McGilberry, we've gone through	24	Heidelberg, Mississippi. And that's I think	
	the all your work sites, and now I'm going to	25	that's where we did the sandblasting at.	-

	Page	42	Page 44
1	Q. Hollowburg?		1 Q. So there wasn't any air feeding into
2	A. Heidel Heidelberg.		2 the to the helmet?
3	MR. FOXWORTH:		3 A. No, sir.
4	Heidelberg.		4 Q. Do you remember what color it was?
5	MR. MANUEL:		5 A. It was a dark color. That's the only
6	Okay. Heidelberg. Yeah, okay.	Į	6 thing I'm not for sure what color it was.
7	Q. That's where you did the		7 Q. Do you remember how it did it have
8	sandblasting?		8 any attachments on it or anything that you used
9	A. Yes, sir.		9 to to adjust the helmet?
10	<ul> <li>Q. Do you remember when that was, what</li> </ul>	1	0 A. I'm not for sure about that.
11	year it was that you did the because you	1	Q. Do you remember any straps or buckles
2	worked there, it looks like, for two years, in	1	2 or snaps or zippers?
13	'73 and '74. Was it early in your career with	1	A. I don't, really don't remember.
14	Tom Pittman or late?	1	Q. The you said it had a window in
5	A. I'm not for sure.	1	5 front. Do you remember what shape that window
16	Q. When you say that you tried, tell me	1	6 was?
17	what you did when you said you tried doing the	T	A. Square.
18	sandblasting. What were y'all sandblasting?	- 1	Q. And if I were looking at you when you
19	A. We was sandblasting some steps. And		9 had that on, how much of your face would I see
20	I tried it then.	1	through that window? How far down did it come
47	Q. How long how long did you try it?		on your face?
21 22 23 24	A. I don't know.		A. You could see outside, the outside of
\$ A	Q. More than an hour or or	- 1	my my eyes, a little bit a little bit
1 ° 2 5	A. Or less. Q. Less than an hour.		4 higher than my eyelashes and a little bit lower
<u> </u>	Q. Less than an hour.	7	5 than my nose.
	Page 4	43	Page 45
1	What did you have on any kind of		1 Q. Okay. So right above your eyelashes
2	protective equipment that one time that you		2 down to part of your nose?
3	sandblasted the steps with Pittman?		3 A. Yes, sir.
4	A. Yeah, I had a helmet on.		4 Q. Did you ever have to change out that
5	Q. A helmet. Describe for me the helmet	1	5 window well, you only used it that one time?
6	that you had on.		6 A. Just one time.
7	A. Okay. It was a it was a heavy	- 1	<ol> <li>Q. Okay. And that one time you used it,</li> </ol>
8	cloth. You know, like that that tarp they	1	8 you used it for less than an hour; is that
9	use on the trucks, they tarp the loads down		9 correct?
10	with.	1	0 A. Yes, sir.
1 2	Q. Okay.	1	Q. So you never do you know how the
.3	A. That heavy kind of tarp. And it had the little window in it.		2 window was changed could you change out the
.4			3 window at all?
5	Q. How far down did the tarp come down on your body?		4 A. Yes, sir, you could change it.
.6			Q. Did you ever see anybody change it
7	A. Well, the one I remember using I am not for sure how how low did it come.		6 out?
8		17	
9	Q. Would it come down further than your neck, or down to your waist or or	18	, and the state of
20	A. Just a little below my shoulders, I	19	, <u>, , , , , , , , , , , , , , , , , , </u>
21	believe it was.	20	
22	Q. Did the did it have any kind of	21	,
23	any hoses coming into it or anything like that,	22	, · · · · · · · · · · · · · · · · · · ·
24	the the helmet that you wore?	23 24	
25	A. No, sir.	25 25	
		40	5 A. No, sir.

Page 4	6	Page 48
Q. So it just fit, just the tarp part	1	at Pittman?
2 just fit right on top of your head?	2	A. Yeah. The guy that that was doing
3 A. Yes, sir.	3	it, he he he did it.
4 Q. Did you wear could you have worn a	4	Q. All right. Do you remember who that
5 helmet under it? Or did you wear a helmet under	5	
6 it? I guess that's	6	A. The same guy that that you
7 A. Oh, I had a hat on.	7	know I don't know his name for sure.
8 Q. You had a hat?	8	Q. Okay. Did you have to do you know
9 A. Yes, sir.	9	what they were using to blast those steps, what
0 Q. A baseball cap or	10	material they were using?
1 A. Yes, sir.	$I_1$	A. What you mean? Explain yourself.
Q. Do you remember what condition that	12	Q. I mean, was it — I mean, was it
3 hood was in? I mean, did it have any tears or	13	sand? Was it shot, steel shot? Was it or do
4 cracks or tape on it or anything like that?	14	you know what it was?
5 A. I'm not for sure.	15	A. It was sand.
6 Q. Is that the only time that you've	16	Q. Do you know how did do you
7 ever worn a piece of equipment like that, a	17	know how the sand got there that y'all used to
8 helmet made out of the tarp?	18	sandblast those steps?
9 A. Yes, sir.	19	A. Laurel Machine & Foundry, I think
Q. At any of the jobs that you've worked	20	is
21 on?	21	Q. Why do you think it came from there?
<sup>2</sup> 2 A. Yes, sir.	22	A. That was one of the places we got
Q. All right. Why did you why was	2₃	supplies from.
4 that the only time that you ever tried	24	Q. Do you remember specifically getting
5 sandblasting?	25	sand from Laurel Machine & Foundry to use on
Page 47		Page 49
A. That was the only job we done.	1	those steps?
2 Q. Oh, really?	2	A. Yes, sir.
3 A. Yes, sir.	3	Q. What what did it come in? When
4 Q. Was that the only when you worked	4	y'all went to go get it, what did it what did
5 at Tom Pittman, was that the only job in which	5	the sand come in? Was it in a truck or
6 y'all did any sandblasting, was sandblasting	6	I'm just trying to figure out what
7 those steps?	7	kind of well, did it come in a container, or
8 A. Yes, sir.	8	was it just loose sand?
9 Q. So, do you remember any of the guys	9	A. It was no, it was in a bag.
that were working with you when y'all were	10	Q. In a bag. Do you remember what that
sandblasting the steps?	11	bag of the sand that you used while you were at
A. Oh, they're not living now.	12	Pittman, what it looked like?
Q. Okay. Do you remember their names at	13	<ol> <li>A brown bag with red writing.</li> </ol>
. 4 all?	14	Q. Do you remember any other types of
	1	
5 A. No.	15	bags other that you used with Pittman other
6 Q. You don't remember.	15 16	than the brown bag with red writing?
Q. You don't remember. Do you when you weren't that	15 16 17	than the brown bag with red writing?  A. That's the only one I remember.
Q. You don't remember. Do you when you weren't that less than an hour that you were doing the	15 16 17 18	than the brown bag with red writing?  A. That's the only one I remember.  Q. Do you know what the red writing
Q. You don't remember. Do you when you weren't that less than an hour that you were doing the sandblasting, is that as long as it took to do	5 6 7 8 9	than the brown bag with red writing?  A. That's the only one I remember.  Q. Do you know what the red writing said?
Q. You don't remember. Do you when you weren't that less than an hour that you were doing the sandblasting, is that as long as it took to do the steps?	567890	than the brown bag with red writing?  A. That's the only one I remember.  Q. Do you know what the red writing said?  A. No.
Q. You don't remember. Do you when you weren't that less than an hour that you were doing the sandblasting, is that as long as it took to do the steps?  A. Oh, that's all I done, just that	5678901	than the brown bag with red writing?  A. That's the only one I remember.  Q. Do you know what the red writing said?  A. No.  Q. How many bags — do you remember how
Q. You don't remember. Do you when you weren't that less than an hour that you were doing the sandblasting, is that as long as it took to do the steps?  A. Oh, that's all I done, just that Q. Okay.	56789012	than the brown bag with red writing?  A. That's the only one I remember.  Q. Do you know what the red writing said?  A. No.  Q. How many bags — do you remember how many bags it was?
Q. You don't remember. Do you when you weren't that less than an hour that you were doing the sandblasting, is that as long as it took to do the steps?  A. Oh, that's all I done, just that Q. Okay. A that little time.	567890123	than the brown bag with red writing?  A. That's the only one I remember. Q. Do you know what the red writing said?  A. No. Q. How many bags — do you remember how many bags it was?  A. I'm not for sure how many bags we
Q. You don't remember. Do you when you weren't that less than an hour that you were doing the sandblasting, is that as long as it took to do the steps?  A. Oh, that's all I done, just that Q. Okay. A that little time. Q. Was there did anybody else do any	56789012	than the brown bag with red writing?  A. That's the only one I remember.  Q. Do you know what the red writing said?  A. No.  Q. How many bags — do you remember how many bags it was?

		. [	
1	Page 50	)	Page 52
1	you did for Pittman, was it done outside?	1	Q. Were there any other controls on the
2	A. Yes, sir.	2	hose itself that you remember on that equipment
3	Q. And I know you said you did the	3	at Pittman?
4	the blasting you actually tried, you did for	4	A. No, sir.
5	less than an hour. But how long did it take	5	<ol> <li>Q. Do you remember what the hose hooked</li> </ol>
6	total to do do the blasting of those steps;	6	up into?
7	do you know?	7	A. All I remember, you you take them
8	A. No, I don't know how many hours it	8	and just (witness indicating) twist them
9	took.	9	together when you from the machine and
10	Q. But it wasn't more than one day?	10	and and to the line, just take it and twist
11	A. I'm not for sure if we finished in	11	it. And it's
12	one day or what.	12	Q. And it's connected
13	Q. Do you think but it was not more	13	A. It was hooked up. Yes, sir.
14	than two days? I mean, you may have done it one	14	Q. Okay. And that's what I'm I'm
1.5	day and finished up the next day, or or do	15	asking about the the the machine that the
16	you remember?	16	hose was hooked up to.
17	A. Something like that.	17	A. Okay.
1.8	Q. Okay. Do you remember any of the	18	Q. Can you tell me what that machine
19	blasting equipment that was used that one time	19	looked like?
20	that y'all sandblasted the steps for Pittman,	20	A. No, sir.
	what it looked like?	21	Q. Do you remember, was it a do you
22	A. I'm not for sure on that one.	22	remember the color or size or shape or anything
23	Q. Did you ever load any of the	23	about that machine?
	equipment that was used for blasting of those	⊉4	A. No, sir.
25	steps?	25	Q. Do you know how the machine was
	Page 51		Page 53
1	A. I'm not for sure.	1	powered?
2	Q. Do you specifically do you	2	A. I think we had we had an air
3	remember if you you're saying you don't	3	compressor on that one.
4	remember loading any of the sandblasting	4	Q. What did the air compressor look
	equipment used on those steps?	5	like?
6	A. Yes, sir. I don't remember.	6	A. On that on the pot, all I
7	Q. Okay. Do can you tell me anything	7	remember, it had a deep valley in it where you
	about the equipment that was used to sandblast	8	poured the sand in. And other than what it
9	those steps when you were working for Pittman?	9	looked like, I don't know.
10	A. Yeah. All I remember is the hose was	0	Q. Okay.
1	black.	1	MR. FOXWORTH:
12	Q. Pardon me?	2	You talking about the top of the pot?
13	A. The hose was black.	.3	THE WITNESS:
4	Q. The hose was black? Okay.	4	Yes, sir.
5	Do you remember how you could you	.5	MR. MANUEL:
	control were there any controls on the hose,	6	Q. And that was where do you
i .	the black hose that was used?	.7	remember, was there anything like a lid to the
.8	A. Yes, sir.	. 8	top of the pot or anything like that?
.9	Q. Okay. How did it how was it	.9	A. No, sir. There's no lid.
ſ		20	Q. No lid?
21		1	A. Not as I know of.
		22	Q. Do you know how tall that pot was?
23		:3	A. A little over five foot.
		4	Q. Did you ever load that pot?
2.5	A. Yes, sir.	5	A. Yes, sir.

Page 54	1	Page 5	6
Q. How many do you remember how many	1	what was behind the door?	
2 bags of sand you would load into that pot before	2	A. No, sir.	
3 it would be full?	3	Q. Okay. Did could the pot that was	
4 A. I never did put try to, you	4	used on the steps for Pittman be loaded while	
5 know, count how many I put in there. You know,	5	somebody was still sandblasting, or did you have	
6 just just try to keep enough in it.	6	to stop the sandblasting, load it, and then	
7 Q. Okay. Did you have to stand up on	7	start sand sandblasting, again?	
8 anything to be able to load the top of that	8	A. And say that, again, now.	
9 load that pot? Or could you stand on the ground	9	Q. Yeah. That was kind of a hard	
10 and load it?	10	question.	
A. I think I was standing on one of	11	The pot that was used there at the	
those blocks. I remember, yeah, a block.	12	stairs that were sandblasted while you worked	
Q. I'm going to ask you what's going to	13	for Pittman, did they have to cut it off, cut	
sound like a strange question, but it's going to	14	the sandblasting machine off to load the sand	
help me figure out how big this thing is.	15	into it, or could you load it while it was still	
6 A. Uh-huh.	16	going?	
Q. If you were to go up and want to put	17	A. Oh, you can load it while it's still	
8 your arms around that pot, could you reach	18	going.	į
9 around to it, the other side?	19	Q. Okay. And did you described that	
0 A. No, sir.	20	you said that there was an you remembered an	
Q. Okay. Do you remember if it had any	≱1	air compressor with regard to that pot? Or did	
2 wheels on it?	22	I misunderstand you?	
A. This one, I don't remember no wheels	23	A. I'm not for sure on this here, but	
4 on it.	24	I I I know about that other one.	
Q. No wheels? Is that correct?	25	Q. About the other one?	
Page 55	1	·	-
1 A. Yes, sir.	,	Page 57	ļ
2 Q. Did you ever have to move that pot at	1	A. Yes, on on Gordon.	
3 all?	2	Q. On Gordon. Okay. We're still	
4 A. No.		talking about the one at Pittman.	
5 Q. Do you know how it got there, to the	4	A. Right.	
6 stairs?	5 6	Q. So you're not sure if there was	
7 A. No, sir.	7	A. Yeah, I'm not for sure.	
8 Q. Do you remember what color it was?	E .	Q. Okay. You don't recall whether there	
9 A. No, sir.	8 9	was an air compressor on the one at at Pittman?	1
Q. Do you remember if there was any	10	A. No, sir.	
1 writing on the pot?	1	· · · · · · · · · · · · · · · · · · ·	
2 A. I'm not for sure.	2	Q. And you couldn't describe any sort of	
3 Q. Okay. Is there something that you	3	air compressor that you you may have used at Pittman, correct?	
4 think you may remember about it or writing on	4	•	
5 it? You say you're not sure, but do you	15	•	Alterday
6 remember is there something you remember	. 5 . 6	Q. While you were did did you	GR 1.00
7 about that pot?	L 7	actually load the pot while y'all were blasting those stairs for Pittman?	ľ
8 A. Well, about that pot, I know it was	.8		Walk Earl
9 something about like a small door in front of	. 9	A. No, sir, we didn't I didn't didn't I didn't load it.	Sec.
^ · · · · · · · · · · · · · · · · · · ·	20		10,000
The Carlotte and the Atlanta	21	Q. You didn't load it? A. No.	F
, , , , , , , , , , , , , , , , , , ,	22		methods.
	23	V	ALC: UNIVERSITY
, , , , , , , , , , , , , , , , , , ,	. 3	had done a little bit of sandblasting, were you	02012
T	. <del>4</del> 25	around the stairs at all while the other guy was sandblasting?	Sales of
become a supplementation of the supplementati	. ~	surasung:	ľ

	Page 5	86	Page 60
1	A. Well, I did it when he when he was	1	mask that you wore while you were there tending
2	on break.	2	
3	Q. Oh, you did the sandblasting while he	3	A. Okay.
4	was on break?	4	Q. What color was it?
5	A. Yes.	5	
6	Q. Okay. So the times that the other	6	, , , , , , , , , , , , , , , , , , , ,
7	guy was doing the sandblasting of the stairs,	7	hold it on. And you had the
8	were you around those stairs at all?	8	Q. Was there — let me — and I don't
9	A. Yeah. I was close you know,	9	
10	tending the pot, you know, you've got to stay	10	rubber band that held it on?
11	pretty close.	11	A. Yes, sir. One side to the other
12	Q. What were you doing to tend the pot	12	side.
13	while the other guy was sandblasting at Pittman?	13	MR. FOXWORTH:
14	A. To make sure it didn't get empty.	14	He said it was like a rubber band.
15	Q. And you'd tell somebody else to come	15	MR. MANUEL:
16 17	load it, load it in, load sand into it?	16	Q. Okay. What color was that so
8	A. Well, I didn't	17	A. White.
19	Q. Or it never got empty?	18	Q it was elastic, the the band
20	<ul><li>A. It never did get empty.</li><li>Q. Okay. Did how far away were you</li></ul>	19	was?
‡1	Q. Okay. Did how far away were you from the steps that the guy was sandblasting	20 21	A. Yes.
12	when you were making sure that the pot didn't	ı	Q. Okay. And it was a white color?
22 23 24	get empty?	22 23	<ul><li>A. Yes, sir.</li><li>Q. The the band itself was white?</li></ul>
T 4	A. I'm not for sure on how many feet	24	A. Yes, sir.
<u></u> 25	was it from it, but it was I would say about	£ 2 5	Q. Was there any writing on the band
-		<del> </del>	
	Page 5	9	Page 61
	twenty-five foot.	1	that you remember? It may not have been big
2	Q. Twenty-five feet?	2	enough to have any writing on it, I guess? You
3	A. Something like that.	3	don't remember any writing on it?
4	Q. The time that you were there tending	4	A. No, sir.
5	the pot, did you wear any kind of protective	5	Q. Okay. The do you know how that
7	equipment?	6	band was attached to the mask?
8	A. I had a a dust mask. Q. Did you have anything else while you	7	A. Like a little staple.
9		8	Q. Was there anything on the you
0	were tending the pot there at Pittman other than a dust mask?	9	were I think you were describing to me
1	A. No, sir.	10 11	something on the front of the mask?
2	Q. Did you was it just did you	12	A. Yes, a little aluminum, like it's
3	wear more than one type of dust mask while you	13	made out of aluminum, which you can when you put it on, you can shape it around your nose.
4	were there tending the pot that day y'all were	14	Q. Like a nose clip?
5	sandblasting or	15	A. Yes, sir.
6	A. No, sir, just that one.	16	Q. What was the color? Was it aluminum
7	Q. There was just one type?	17	color?
.8	A. Just that one type.	[8	A. Yes, sir.
.9	Q. And was there any time that you were	19	Q. Was there anything else on the front
20	there tending the pot that you didn't have the	20	of that mask that you used at Pittman other than
21	dust mask on?	21	that nose clip?
22	A. I always had a dust mask on.	22	A. Well, other than knowing what it was
. ~	Q. You always had one on?	23	is the ridges it had in it, you know.
23			
24	A. Yes, sir.	24	Q. But as far as there wasn't any
	A. Yes, sir.     Q. Tell me what it looked like, the dust	24 25	Q. But as far as there wasn't any other piece or anything like that on the front

	Page	62	Page 6	
1	of that?		·	,4
2	A. No, sir.	2		
3	Q. Which you said there were some		that the masks you used at Pittman came in?  A. No, sir.	
4	ridges, they were which way did the ridges go	1	Q. How did you get them on the work	
5	on the mask that you used at Pittman?	1		
6	A. Straight across (witness indicating).	1		
7	Staggered, you know not staggered, but you	-	, , , , , , , , , , , , , , , , , , , ,	
8	know how steps is, you know. Start up here and	8		
9	long, and then the next I mean, short up	g	· · · · · · · · · · · · · · · · · · ·	
10	here, and then it get a little bit longer as you	10	C = my y a man in particular part	
11	go down.	11		
12	Q. Okay. So the the ridges went	12	•	
13	horizontal across the mask?	13		
4	A. Yes, sir. Straight across (witness	14		
15	indicating).	15		
16	<ul> <li>Q. And they started small and got bigger</li> </ul>	16	Q. Did if you looked at the mask that	
17	as they went down the mask, the ridges?	17	you had at Pittman, was there anything on the	í
18	A. Yes, sir. Then yes, sir.	18		
19	Q. Okay. Was there anything else on the	19	<b>3</b> ,	
20	front of that mask other than ridges? Do you	20		
20 21 22	remember any writing at all on the mask?	21	` `	
<b>2</b> 2	A. No, sir.	22		
7- 23 24	Q. No writing?	23		
24 25	A. No, sir.	24 I	, , , , , , , , , , , , , , , , , , ,	
<u> </u>	Now, on that (witness	25	A. Well, the only thing you can remember	
	Page 6	3	Page 6	5
1	indicating) now, they just don't like I	1	is that it's made the same way from the inside	
2	said, it's you know, start here and get	2		
3	bigger. You know, start at the top, and, about	3	Q. So it looked the same	
4	so far down, it'd get that long. And then, it	4	A. Right.	
5	just work itself back, again (witness	5		
6	indicating).	6	Did anybody at Pittman ever give you	
7	Q. Like a diamond on the front of it?	7	any instructions on how to wear that mask?	
8	A. Yes, sir.	8	A. No, sir.	
9	Q. How far — how far down did the mask	9	Q. Did anybody ever do any fit testing	
0	itself come on your face? Below your chin or	10	or test how it fit on your face there at	
1	A. Yes, sir, below your chin.	11	Pittman?	and a second
.2 .3	Q. Where where did you get the masks	12	A. No, sir.	1000
	that you used at Pittman?	13	Q. Did you use any other types of masks?	177.11
. 4 . 5	A. We got them from Phillips, Phillips Building Supply in Ellisville.	14 15	I know we've been talking about the time you	201
.6	Q. Do you remember anywhere else that	16	were sandblasting the stairs, but did you use,	SAL CARRIED
7	you would have gotten	17	in the other jobs that you did at Pittman, any	i de
.8	A. We	18	other types of masks other than that one that you've described?	a a
9	Q dust masks?	19	•	ľ
20	A. We only used Phillips, Ellisville and	20	A. No. We used about the same, same masks, the same color masks.	
21	Laurel.	21	Q. So it was the are you saying here	
22	Q. Did you were you ever the person	22	today that that's the only type of mask you used	Applications.
	· · · · · · · · · · · · · · · · · · ·	Į2 23		
23	that was responsible to go get them	Z.S	at Piuman while voli worken at Piiman is the	-
23 24	that was responsible to go get them A. No, sir.	24	at Pittman while you worked at Pittman is the one you just described?	10000
			one you just described?  A. What I can remember.	half beauteau and had

	Page	66		Page 6	8
1	Q. Okay. Do you remember, while you		1	A. That same kind of dust mask.	
2	were at Pittman, any other types of masks that		2	Q. The the kind of dust mask you just	
3	you used or anything different about any other		3	described for us?	
4	types of masks?		4	A. Yes, sir.	
5	A. No, sir.		5	Q. Okay. Did you were there any	
6	VIDEO TECHNICIAN:		6	times that you ran the jackhammer that you	
7	Excuse me. I need to change out my		7	didn't wear a dust mask?	
8	tape.	- 1	8	A. No, sir. I always had a dust mask	
9	Off the record. The time is 11:49.	Ì	9	on.	
10	(Off the record.)	l	0	Q. Was there any time that you ran the	
11	VIDEO TECHNICIAN:	1	1	jackhammer that you wore either that you wore	
2	Back on record. The time is 11:49.	1	.2	a dust mask that was different than the one that	
13	MR. MANUEL:	Ţ	.3	you just described for us, the time that you're	
4	Q. Did you ever go with anybody to buy	Ī	4	working at Pittman?	
5	the masks that were used at Pittman?	Í	.5	A. No, sir.	
<u> </u>	A. Yes.	Ī	.6	-	
Ī7	Q. You did?	Ì	.7	Q. And how when you were running the	
[8	A. When we well, you know, we get	Ì	. 8	jackhammer, how long would you typically I	
9	ready to go to the job site, we stop and pick up	ţ	9	mean, is there a time period that you'd use the	
ŧ,	stuff.	ţ	0	jackhammer? I mean, is it an eight-hour thing	
⊉0 21	Q. Did you ever go in and have a			or an hour thing? Or, I mean, I imagine a	
7 2	conversation with anybody	1	1	jackhammer is pretty tough on you?	
2 23	A. No, sir.		2	A. Yeah.	
24	•		3	Q. What would typically, when you	
1 3 2 5	Q about what type of mask to use?		4	were running the jackhammer, how long would you	
<u> </u>	A. No, sir.	<u> </u>	5	run it?	_
	Page 6	67		Page 69	,
1	Q. All right. Did did you ever		1	A. Well, I I could say until until	
2	see well, let me ask you this: The work that		2	my hand got	
3	you did for Pittman, was it always outside, any		3	Q. Tired?	1
4	of the work that you did?		4	A. Yeah,	
5	A. Well, we did both outside and inside.		5	Q. But, I mean, it wouldn't be something	
6	Q. Okay. The concrete work that you did		6	that you'd have to go in there and go for an	
7	for Pittman, was that always outside?		7	hour straight	
8	A. Some outside, some inside.		8	A. No, sir.	
9	Q. Okay. What type of concrete work		9	Q jackhammering?	
0	would you have done inside?	10	0	A. No, sir.	
. 1	A. Like where we tear out, tear out a	1:	1	Q. Okay. Were there other jobs that you	
.2	spot and, you know, like patch in the back.	1:	2	did when you were tearing out concrete besides	
.3	Q. Tearing out a spot of concrete?		3	running the jackhammer? Were there other things	
4	A. Yes, sir.	1	4	that you did besides run the jackhammer?	I
.5	Q. Okay. How much how much of the	1	5	A. We put buildings up. You know, we	
. 6	time that you worked at Pittman did you do	- 1	5	hung buildings. We done remodeling and stuff	
7	actually tearing out of concrete?		7	like that.	1
8	A. Quite a few times.	$I_{8}$		Q. Okay. I'm mainly just talking about	
9	Q. Okay. When y'all were working on	19		when when the tearing of the concrete was	Chipopita,
0	tearing out concrete, what was your job? What	20		going on	Î
1	did you do?	₹3		A. Oh, okay.	-
2	A. I ran that the jackhammer.	22		Q was there anything else you did	N. Company
3	Q. The times that you you ran the	23		besides run the jackhammer?	GOVES:
4	jackhammer tearing out concrete, did you wear	24		A. Yeah, I did something there besides	As of the
5	any kind of protective equipment?	25		the jackhammer.	Section.
~		4			

Γ				
	Page 1	70		Page 72
1	Q. And what else did you do?		1	it?
2			2	A. Yes, sir.
3	was tearing out, you know, if if I got tired,		3	Q. Just a second.
4	he put somebody else over, and I'd go like do		4	While you worked at Pittman, did you
5	what he was doing. See what I'm saying?		_	have any facial hair at all, either a beard or
6	Q. Right. Just like cleaning up or			mustache?
17	A. Right.		7	A. No. sir.
8	Q or hauling stuff off or stuff like		8	Q. All right. Let me ask you, at
9	that?			
10	A. Yes, sir.	-	0 1	that the the time that you said that you
11	Q. Okay. The times that you would be	1	1 1	had done the sandblasting at the steps, that's
2	over there hauling stuff off, how close would	- 1	2 ,	the only time you either did sandblasting or
13	you be to where they were doing the			were around any sandblasting while you worked
4	jackhammering?		ر 4	for Pittman; is that correct?
5	A. I'm not for sure how far.	1		A. Yes, sir.
[6	Q. Did if you were doing something	- 1	5 1 6	MR. FOXWORTH:
<b>1</b> 7	else besides running the jackhammer when y'all			You mean the time that he did it and
[8	were tearing out concrete, did you wear any kind	- 1		he time that he was there filling the pots; is
[9	of protective equipment?	Ł		hat what you're talking about?
20	A. I had the the dust mask on.	- 1	9 1	MR. MANUEL:
21	Q. And is that the same dust mask that	ŀ		Right.
₹2	you described earlier for us?	2		MR. FOXWORTH:
23	A. Yes, sir, the same.	<b>⊅</b> ′ 2		Okay.
24	Q. All right. Did you ever see while	- 1		MR. MANUEL:
25	you worked at Pittman, did you ever see any kind	⊉ 2 2 5		That's the same time, I assume, isn't
F	you worked at I filliall, did you ever see ally killd	+	3 1	1?
	Page 7	1		Page 73
1	of written respiratory program? Or any kind of		L N	/IR. FOXWORTH:
2	written documents about respiratory protection	2	2	Yeah. But the way you phrased it, it
3	while you worked at Pittman?	3	3 v	vas like the only time he did it
4	A. No, sir.	4	l N	IR. MANUEL:
5	<ul> <li>Q. Did y'all have safety meetings while</li> </ul>	5	<u> </u>	Okay.
6	you worked at Pittman?	16	5	Q. But the only time that you were ever
7	A. No, sir.	17	a	round sandblasting at Pittman was the time that
8	Q. Did they do any kind of physical	8	у	'all sandblasted the steps, and you did it for
9	exams on you while you worked at Pittman? Like	9	le	ess than an hour, and then you helped
10	send you to a doctor for	10	)	A. Yes.
11	A. I went to the doctor one time.	11		Q the other guy?
12	Q. Okay. And that was the company sent	12		A. Yes, sir.
13	you to the doctor?	13		Q. Okay. All right. The next
14	A. Yes.	14	p	ace that I think we talked about was Daniel
15	Q. Why did the company send you to the	15	Ĉ	onstruction from 1979 to 1980. What was your
16	doctor at Pittman?	16	jo	b at Daniel Construction?
17	A. I got cut over the eye with	17		A. I was a laborer and a cement
18	pushing some blocks.	18	fi	nisher.
19	<ul> <li>Q. And as far as like just checkups that</li> </ul>	19		IR. MANUEL:
20	the company would send you to, did they do that	20		You know, I need that no, I think
21	at Pittman at all?	21	Py	e got it.
22	A. No, sir.	22		Q. Do you remember who your supervisor
23	<ol><li>Q. Were there any rules about wearing</li></ol>	23	W	as at Pittman? Was it Mr. Pittman?
24	the dust mask while you worked at Pittman?	24		A. Pittman.
25	Did they have any did they require you to do	25		Q. Tom Pittman?
Dar-Francis		-		

	Page	74	Page 76
1	A. Tom Pittman.	1	A. I'm not for sure what's
2	Q. Do you know where is Mr. Pittman	2	Q. Was there anybody that was from down
3	still in Ellisville?	3	here in Laurel that you worked with up there?
4	A. I'm not for sure.	4	A. No.
5	Q. Did you have anybody else who was a	5	Q. Or down here from I mean, down in
6	supervisor other than Mr. Pittman?	6	Mississippi at all?
7	A. Just him.	7	A. Not as I know of, not on the crew I
8	Q. Okay. Were there any other and	8	was on.
9	I asked you may have asked you this, but	9	Q. Okay. What kind of shifts did you
10	I don't know if I just asked you about	10	work at Apex? How long?
1	sandblasting the steps. Do you remember any of	$\overline{1}_{1}$	A. 6:00 in the morning until you got
12	your co-workers that worked with you at Pittman,	12	through.
13	the names of any of them?	13	Q. What was it that y'all were building
4	A. I had a brother, James McGilberry.	$\frac{1}{4}$	at the nuclear power plant? Were y'all putting
Ī5	Q. James McGilberry?	15	a slab in for it or
6	A. Yes, sir.	16	A. We were building the power plant,
Ī7	Q. Is James still around?	17	what we did.
[8	A. Yes, sir.	18	Q. What part of the power plant, I guess
9	Q. Does he live in Ellisville?	19	I should ask? Or what kind of stuff were y'all
20	A. No, sir.	20	working with?
21	Q. No. Where does he live?	21	A. What kind of stuff we were working
22	A. I think he stay in Laurel.	22	with?
23	Q. In Laurel?	23	Q. I mean, were y'all doing the concrete
4	A. Yes, sir.	24	work or doing the steel work, or or what were
7 25	Q. Anybody else that you remember that	2 <sub>5</sub>	y'all
F	Page		Page 77
1	worked with you at Pittman?	1	A. Well, when I was a laborer, I was
2	A. I'd have to think on that one. I	2	just mostly cleaning up as a laborer. Cleaning
3	don't know for sure.	3	up and chipping.
4	Q. Okay. If you think of anybody else	4	Q. Okay. What
5	that you worked with at Pittman, can you tell	5	A. With a hammer, chipping hammer.
6	your attorney and let him tell us?	6	Q. What were you chipping with a hammer,
7	A. Okay.	7	concrete?
8	Q. All right. And we're talking about	8	A. Yes, sir.
9	Daniel Construction. You said you worked as a	9	Q. And you didn't do did you do any
10	laborer at Daniel Construction. What where	10	sandblasting at while you worked for Daniel
Īi	did you do what where did you work for	Ĭi	Construction?
2	Daniel Construction, what places?	12	A. No, sir.
3	A. I worked at Apex, North Carolina, a	Ī3	Q. Were you around any sandblasting at
4	nuclear power plant.	$\frac{1}{4}$	Daniel Construction?
5	Q. Is that the only place that you did	15	A. Not no sandblasting, but sand, I was.
6	any work for Daniel Construction?	16	Q. Okay. Just sand?
7	A. Yes, sir.	Ī7	A. Yeah.
8	Q. And you said you you were hired on	[8	Q. All right. Tell me how you were
9	as a laborer; is that correct?	Į 9	and you've described it a little bit before, but
20	A. Yes, sir.	20	how you were around sand while you were at
21	Q. Do you remember who your supervisor	Į 1	Daniel Construction.
	was at Daniel Construction?	Į - Į 2	A. Well, say you make a pour on a wall.
ş. c.			
23	A. No, sir.	23	I hen, once you pull the form off, and if it's
22 23 24	•	23 24	Then, once you pull the form off, and if it's got honeycombs in it, it's got to be chipped
23 24 25	A. No, sir.     Q. Do you remember any of your co-workers at Daniel Construction?		got honeycombs in it, it's got to be chipped out. Then, you've got to replace it, you know,

	Page	78	Page 80
1	mix that that sand and cement together and	1	<u>-</u>
2		2	*****
3	Q. So you were mixing sand with already	3	
4	wet cement	4	·· · · · · · · · · · · · · · · · · · ·
5	A. No, no.	5	
6	Q to patch? Oh, okay.	6	
7	A. Dry cement. Sometimes it's dry	7	
8	cement, sometimes it's wet cement.	8	,
9	Q. So the the mixing of the sand with	9	
10	the cement to patch the the walls after the	10	•
11	forms had come off, that was the times that you	11	Q. Mr. McGilberry, when we took a break,
12	were around sand?	12	we were talking about your your work at
13	A. Yes, sir.	13	Daniel Construction up in North Carolina. Do
14	Q. Is that the only sand that you were	14	you remember that?
15	around at Daniel Construction?	15	A. Yeah.
16	A. Yes, sir.	16	Q. And we had just we were talking
17	Q. What did y'all use to mix it up, what	17	about the breaking up of concrete that you've
18	kind of equipment? A mixer, sand mixer?	18	been involved with there at the nuclear plant in
19	A. Your hand.	19	North Carolina.
20	Q. Oh.	20	A. Uh-huh.
21	A. And a hoe.	21	Q. And I think that you said that you
20 21 22 23	Q. A hand and a hoe?	⊉2	wore a dust mask while you operated the
	A. Uh-huh.	23	jackhammer; is that correct?
<b>24</b>	Q. So y'all just had it down in a	24	A. Yes, sir.
25	A. Yeah, in a bucket I mean, that	⊉5	Q. Were there any times that you
	Page 7	9	Page 81
1	little little hopper, mix it back and forth	1	operated the jackhammer while working at
2	(witness indicating).	2	Daniel Construction in which you did not wear
3	Q. Did you use any other equipment to	3	any protection?
4	mix the sand and the concrete together besides a	4	A. No, sir.
5	hoe?	5	Q. Okay. And did you always have a dust
6	A. No, sir.	6	mask on; is that what you wore?
7	Q. Did you do any work on a jackhammer	7	A. Yes, sir.
8	while you were at Daniel Construction?	8	Q. Tell me, what color was the dust mask
9	A. Yes, sir.	9	that you used at at Daniel Construction.
0	Q. What kind of things did you	10	A. It was mainly about the same as the
1	jackhammer?	11	rest of them, white, the same kind of ridges
2	A. Walls, floors, anything that was	12	(witness indicating). I think the only
13	messed up.	13	difference from that was the string was blue.
L4 5	Q. Did was it always concrete that	14	Q. The the
. 5 . 6	you were jackhammering?	15	A. The rubber the
. o l 7	A. It was always concrete.	16	Q. The the strap?
8	Q. Okay. When you worked the the	17	A. Yes, sir.
.9	jackhammer at Daniel Construction, did you wear	18	Q. Okay. Was it a single strap
. 9 20	any kind of protective equipment?  A. We used them dust masks.	19	A. Yes, sir.
21		20	Q. — on the mask?
22	Q. Okay. Are you all right? Do you want	21	And what was that strap made out of?
23	A. Huh-uh.	22	A. It was about the same as the rest of
4	Q. Do you want to take a break?	23	them
25	MR. FOXWORTH:	24 25	Q. Okay.
kombine kan		47	A that rubber.

	Page	82	<u> </u>	Page 9	
1		<b>U</b> Z	7	Page 8	4
1 2	Q. Rubber? A. Uh-huh.		1	Q. Did did anybody ever give you any	
3			2	handouts or written instructions on how to wear	
1	Q. Do you know how that blue strap was attached to the white mask at Daniel		3	the mask or how to use the mask at Daniel	
5	Construction?		4	Construction?	
6			5	A. No, sir.	
7	A. Sort of like that, like a little		6	Q. When you said that you you had	
8	with a with a staple, small staple.		7	to somebody had to go to the back to get the	
	Q. And was there anything on the		8	masks	
9	front of the mask that you used at Daniel Construction?	1	9	A. Well, they had to go behind the	
1	A. Not as I know of.	1	.0	doors. You know, just like a counter, you know.	
11		1	.1	Q. Was this a	
13	Q. Okay. Was there any sort of nose	1	.2	A. When you come get your tools, you	
4	piece at all on the front of the one A. No, sir.	1	. 3	leave something leave you had to leave a	
15		1	_4	little badge when you pick up something.	
16	Q. The ridges that you that you said was there comething on the front of the	1	. 5	Q. So this was like a toolroom there?	
17	said was there something on the front of the mask?	1	. 6	A. Yes, sir.	
18	A. No, sir.	†	.7	Q. Okay. And is that the only place	;
9	Q. No nothing?	1	.8	that you got any of the masks	
	A. Yeah, the ridges (witness	ţ	.9	A. Yes, sir.	
20 21 22	indicating).	,	0 .	Q at Daniel Construction?	
\$ 2	Q. Oh, ridges.	1	1	A. Yes, sir.	ı
23 23	A. Yeah, okay. I'm okay. I'm		3	Q. Did do you know who it was that	
‡ 4	thinking about something else you were saying.	ŀ		ran the toolroom at Daniel Construction?	١
‡ 3 25	Q. How which way did the ridges go on	•	4	A. No, sir. No, sir.	١
F			. J	Q. Would could you ask for different	-
	Page	83		Page 85	۱,
1	the mask at Daniel Construction?		1	types of mask, or did you just say dust mask,	
2	A. The same way.	- 1	2	and that's what they gave you?	
3	Q. Horizontal?	ı	3	A. Just say dust masks.	-
4	A. Yes, sir.		4	Q. And so that was the only type of dust	
5	Q. If you looked inside that mask that		5	mask you were provided	
6	you used at Daniel Construction, was there		6	A. Yes, sir.	
7	anything on the inside of it? Anything		7	Q at Daniel Construction?	
8	different than from the outside?	- 1	8	Did you ever participate in deciding	
9	A. No, sir.	- 1	9	what masks would be used at Daniel Construction?	
0	Q. Was there any writing on the outside	T	0	A. No, sir.	
11	of the mask at Daniel Construction?		1	Q. At Daniel Construction, did were	
2	A. Not as I remember.		2	there any rules about when you had to wear a	
3	Q. Were there any other types of masks	ŧ	3	dust mask?	
5	that you used at Daniel Construction other than	1	4	A. Yeah. There's a rule. If you didn't	I
16	the white mask with the single blue strap?		5	wear them, you get fired.	
7	A. No, sir.		6	Q. You had to wear them at all times?	
8	Q. That's the only kind you used at Daniel Construction?	- 1	7	A. Just about all times.	
9	A. Yes, sir.		8 9	Q. Okay. Were there times that you	
20	Q. Did you ever see the packaging that			A. All the time.	Total In
21	the masks came out of at Daniel Construction?	2		Q. Oh, you had to wear them all the	L
22	A. No, because they always had to go to	2:		time?	A Section
23	the back and get it, you know, behind doors.	2:		A. Uh-huh. And	
24	Q. So, no, you never saw the package?	2		Q. What would happen	1
. <del>.</del> .	A. No, we never did see the packaging.	2!		A. For what we was doing, we had to wear	1000
See Marketon Co.	11. 110, we never the backaging.	f	J	them. You know, I can't say what everybody else	1

	Page 8	36	Page 8	8
1	had to do.	1	of containers was that sand in there at Daniel	
2	<li>Q. And what was the job that you were</li>	2		
3	doing that required you to have to wear a dust	3	A. All they did was brought it with a	
4	mask?	4		
5	<ul> <li>A. Like chipping, sweeping, stuff like</li> </ul>	5		
6	that.	6		
7	Q. The chipping that you're doing, would	7		
8	that count using the jackhammer?	8	Q. Okay. Did y'all have safety meetings	
9	A. Yes, sir.	9		
10	Q. All right. And what other type of	10		
11	chipping did you do?	11	Q. How often?	
12	A. Well, we had the little little	12		
13	hand chip, you know, chipper, you know, like the	13		
14	welders have. You know, you can take that and	14	and the end of the shift?	
5	knock, you know, some of the concrete off. And	15	A. No, at the beginning of the shift and	
16	if you know, if you need to go back any	16		
17	any further, unless it's a small, something	17	Q. Do you recall, while working at	
18	small, you don't need something real big to do	18	Daniel Construction, was there any safety	1
19	it. I did that.	19	meeting held that discussed the dangers of	
20	Q. And like the hand chipper is kind	20	silica exposure?	
<b>†</b> 1	of like a little hammer-looking thing?	21	A. Not as I knowed of I heard of, you	۱
22	A. Right, right.	2∤2	know.	١
23	Q. Okay. And did you have to wear a	23	Q. Not that you heard of?	
‡4 5	dust mask when you used the hand chipper, as	24	A. Yes, sir.	
25	well?	25	Q. Okay. Was there any were there	
	Page 8	7	Page 89	,
1	A. That's a rule up there. You've got	1	any safety meetings held about the proper type	
2	to wear them.	2	of respiratory equipment to wear, respiratory	1000
3	Q. Did what would happen if you if	3	protection equipment to wear?	
4	you didn't wear your dust mask	4	A. Not in only I remember, you	
5	A. You get fired.	5	know, anytime we was cleaning up, chipping, you	Martin
6	Q. You got fired?	6	know, to keep from breathing that you know,	
7	A. Two write-ups, you're fired.	7	taking that dust in, we had to wear a mask.	45.00
8	Q. Did you ever get written up for not	8	That's all.	
9	wearing it?	9	<ul> <li>Q. Did you ever when you were working</li> </ul>	
0	A. No, sir.	ΙO	at Daniel Construction, did you ever ever	
1	Q. The toolroom that you talked about,	11	have any complaints about the masks you were	
2	do you know if that toolroom was run was run	12	wearing?	de distant
13	by Daniel Construction, or was it run by the	13	A. No, sir.	1250
4	power plant?	14	Q. Did you ever have any problems with	Apple Sept
5	A. I believe it was run by the	15	them protecting you from the dust?	(Cale
.6	construction company, Daniel.	16	A. No, sir.	West Stor
.7	Q. Did did you know anybody that got	17	Q. Did how many would you while	ŀ
8	fired for not wearing their dust mask at Daniel	18	you were at Daniel Construction and you were	STANFOLD
.9 20	Construction?	19	working on the, let's say, chipping and	1
21	A. Not as I know of.	20	jackhammering, would you wear more than one mask	Sept.
22	Q. The the sand, you talked about how	21	a day?	t and parent
. 2 ? 3	you'd you'd mix some sand using a using	22	A. Whatever it takes, two, three.	24/4/201
:4	your hand and a hoe, essentially?  A. Yes, sir.	23 24	Q. When would you	West Co.
:5	Q. Where did what how what kind	25 25	A. When you need it.	
- America Adul	Z. WHOLO THE WHAT HOW WHAT KING	fJ	Q. I'm sorry. I didn't mean to	

1 interrupt you. 2 A. 1 – I say, yes, sir, just by when 3 you need it, you know. 4 Q. How would you know when you needed to change one out? 5 A. 1 – I guess, when it got too dirty, 6 dusty, 7 dusty, 8 Q. It got more difficult to breathe through it? 9 A. Yes, sir. 10 Q. And would you just go back to the toolroom and ask for another one? 11 don't remember. A yes, sir. 12 Q. Did anybody – and I'm – I apologize if if to your face? 13 A. No, sir. 14 Q. Did anybody give you any instructions on how for fit the mask to your face at Daniel Construction for how the mask if it to your face? 15 A. No, sir. 16 Q. Do you remember if there were any signs up at the power plant telling you about signs up at the power plant telling you about the mask to your face at Daniel Construction? 16 A. No, sir. 17 Q. Do you remember, you don't remember. Don't guess. Okay? 18 A. It always was done in the open, you know, unless you was in a room was closed in. 19 Q. Okay. The patching after the forms one off if the open air? 20 Okay. Do you either under a tarp or in the open air? 21 A. It always was done in the open, you know, unless you was in a room was closed in. 22 Q. Okay. The patching after the forms one off? 23 A. Yes, sir. 4 Q. Okay. But as far as jackhammering. that was all done either under a tarp or in the open air? 24 A. It always was done in the open, you know, unless you was in a room was closed in. 25 A. Yes, ir. 26 Q. Okay. Due other the open, you know, unless you was in a room was closed in. 26 Q. Okay. Due of the open air? 27 A. It always was done in the open, you know, unless you was in a room was closed in. 29 Q. Okay. Due of the open, you know, unless you was in a room was closed in. 29 Q. Okay. Due of the open, you was closed in. 29 Q. Okay. Due of the open, you was closed in. 29 Q. Okay. Due of the open air? 29 A. It always was done in the open, you know, electher under a tarp or in the open air? 29 A. Veal, lag the dedor, where the room that you were doned the open air? 29 A. Veal, because ther would you say that you		Page 9	0	Page 92
2 come off? 3 you need it, you know. 4 Q. How would you know when you needed to change one out? 5 change one out? 6 A. I - I guess, when it got too dirty, 7 dusty. 8 Q. It got more difficult to breathe through it? 9 A. Yes, sir. 10 Q. And would you just go back to the toolroom and ask for another one? 11 Q. And would you just go back to the toolroom and ask for another one? 12 toolroom and ask for another one? 13 A. Yes, sir. 14 Q. Did anybody and I'm I apologize if if I asked you this before bunch, but I don't remember. Did anybody do any fit testing of you at Daniel Construction for how the mask fit to your face? 19 A. No, sir. 10 Q. Did anybody give you any instructions on how to fit the mask to your face at Daniel Construction? 11 A. No, sir. 12 Q. Do you remember if there were any signs up at the power plant telling you about 12 Terrember. Dorft guess. Okay? 13 A. Yes, in any dangers of dust or silica exposure? 14 MR. FOXWORTH: 15 If you don't remember, you don't remember. Dorft guess. Okay? 16 A. Both, inside and outside. 17 Q. Do - the the chipping and concrete work that you did at the power plant, was it inside or outside? 18 A. Both, inside and outside. 29 A. Both, inside and outside. 30 Q. Do - the the chipping and concrete work that you did at the power plant, was it inside or outside? 31 A. Yes, in the was the power plant, was it inside, what tap of verifiation did they have in the in the places that you worked? 31 A. Yes, sir. 32 Come off? 3 A. Yes, sir. 4 Q. Do you remember in the open, you is that was all done either under a tarp or in the open, you is many and promises doing any jackhammering at Daniel Construction in a closed-in room? 2 Q. Okay. Describe for me the room that you were doing the jackhammering in Daniel Construction in a closed in room? 2 Q. What percentage of this would you say that you were there were any signs up at the power plant, was it inside or outside? 3 A. Well, it can be the size of this room right heave a honeycomb around it, and you've got to chip th	1	interrupt you.	1	
3 you need it, you know. 4 Q. How would you know when you needed to change one out? 5 Change one out? 6 A. 1 - 1 guess, when it got too dirty, dusty,				
4 Q. Okay. But as far as jackhammering, that was all done either under a tarp or in the open, you disty.  5 Q. It got more difficult to breathe through it?  6 A. Yes, sir.  1 Q. And would you just go back to the tochroom and ask for another one?  1 A. Yes, sir.  2 Q. Did anybody and I'm I apologize if if I asked you this before lunch, but I don't remember. Did anybody do any fit testing of you at Daniel Construction for how the mask fit to your face?  A. No, sir.  Q. Did anybody give you any instructions on how to fit the mask to your face at Daniel Construction?  A. No, sir.  Q. Do you remember if there were any signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure?  MR. FOXWORTH:  If you don't remember, you don't remember. Don't guess. Okay?  A. I don't know.  A. Both, inside and outside.  Q. When you were doing concrete work has to you fake a tarp, you was that its do routside?  A. Both, inside and outside.  Q. When you were doing concrete work inside, when ty the of ventilation of it they was it inside, when the tarp, you face the first hor raining, it always was onne in the open, you know, it always was onne in the open, you know, as in a room was closed in.  Q. Okay. Describe for me the room that you were doing the jackhammering in. Like how big is girly the eviting and the you face at Daniel Construction?  A. Well, it can be the size of this room right have a honeycomb around it, and you've you tree then the nell get to the door. And you might have a honeycomb around it, and you've you to the phen have a many the provention of the mask to you have were there? Was it was more.  Q. Do you remember be fire room that you were doing the jackhammering in Like how big is girly of you and the door, where the the concrete then then all get to the door. And you might have a honeycomb around it, and you've you then put then and then re- when you were doing the provention of the prove	3		1	
5 change one out? 6 A. 1 – 1 guess, when it got too dirty, 7 dusty. 9 Q. It got more difficult to breathe 9 through it? 10 Q. And would you just go back to the 12 toolroom and ask for another one? 13 Q. Did anybody — and I'm — I apologize 15 if — if I asked you this before lunch, but I 16 don't remember. Did anybody do any fit testing 17 of you at Daniel Construction for how the mask 18 fit to your face? 19 A. No, sir. 10 Q. Did anybody give you any instructions 19 on how to fit the mask to your face at Daniel 10 Construction? 11 any dangers of dust or silica exposure? 12 A. No, sir. 13 Q. Do, you remember if there were any signs up at the power plant telling you about 14 any dangers of dust or silica exposure? 15 A. I don't know. 16 MR. MANUEL: 17 Q. Do – the — the chipping and concrete work that you don't remember. Don't guess. Okay? 18 A. Both, inside and outside. 19 C. Nore than 50 percent? 20 A. Uses it rained, we had a tanp, you know, like around the your worked? 21 A. Both, inside and outside. 22 A. When you were doing concrete work inside, what type of ventilation did they have in the — in the places that you worked? 23 A. Dules it rained, we had a tanp, you know, teep — keep the floor from getting wet. But if it's not raining, it always was one in the open, you know, unless you was in a room was closed in. doon, who wis na a room was closed in. A. I always was one in the open, you know, unless you was in a room was closed in. 20 (Nay. Desoribe for me the room that you were doing to elosed in room? 20 (A. Well, it can be the size of this room right here (witness indicating). And then, you were doing the jackhammering an Daniel Construction in a closed-in room? 24 A. Well, it can be the size of this room right here (witness indicating). And then, you were the e-the construction? 25 A. Well, it can be the size of this room right here (witness indicating). And then, you were doing to chip the power plant they out were doing to controle them — then all get to the door. And you might have a honeycomb out the	4	Q. How would you know when you needed to	4	
A. 1- I guess, when it got too dirty, dusty.  Q. It got more difficult to breathe through it? A. Yes, sir. Q. And would you just go back to the toolcorm and ask for another one? A. Yes, sir. Q. Did anybody— and I'm—I apologize if—if lasked you this before lunch, but I don't remember. Did anybody do any fit testing of you at Daniel Construction for how the mask fit to your face? A. No, sir. Q. Did anybody give you any instructions on how to fit the mask to your face at Daniel Construction? A. No, sir. Q. Do you remember if there were any signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure? MR. FOXWORTH: If you don't remember, you don't remember. Don't guess. Okay? A. I don't know.  Page 91  any dangers of dust or silica exposure? MR. FOXWORTH: Q. Do—the—the chipping and concrete work that you did at the power plant, was it inside or outside? A. Both, inside and outside. Q. When you were doing concrete work inside, what type of ventilation did they have in the—in the places that you worked? A. Unless it rained, we had a tarp, you know, unless you was in a room was closed in. Q. Okay. Do you remember doing any jobachmamering at Daniel Construction in a closed-in room? A. Yeah. Q. Okay. Describe for me the room that you were doing the jackhammering in. Like how bise and pline in the re with the sore of this room right here (witness indicating). And then, you know, like around the door, where the—the concrete the—the all get to the door, And you were doing the jackhammering in side doing the re (witness indicating). And then, you know, like around the door, where the—the concrete the—the all get to the door, where you were doing the jackhammering in Like how you wish it was incre—and then patch it. Q. What precreating of time would you say that you had to do any jackhammering inside dering the years that you were there? Was it was more. Q. More than 50 percent? A. Yeah, because—yeah, I believe it was more. Q. Did you have a safety man at Daniel Construction? A. We had doors		change one out?	5	that was all done either under a tarp or in the
8 Q. It got more difficult to breathe 9 through it? 10 A. Yes, sir. 11 Q. And would you just go back to the 12 toolcom and ask for another one? 13 A. Yes, sir. 14 Q. Did anybody and I'm I apologize 16 don't remember. Did anybody do any fit testing 17 of you at Daniel Construction for how the mask 18 fit to your face? 19 A. No, sir. 10 Q. Did anybody give you any instructions 10 Q. Did anybody give you any instructions 11 on how to fit the mask to your face at Daniel 12 Construction? 13 A. No, sir. 14 Q. Do you remember if there were any 15 signs up at the power plant telling you about 16	1	A. I I guess, when it got too dirty,	6	
B   G. It got more difficult to breathe   B   through it?   Co. And would you just go back to the   Co. And would you just go back to the   Co. And would you just go back to the   Co. And would you just go back to the   Co. And would you just go back to the   Co. And would you just go back to the   Co. And word would you just go back to the   Co. And word word word word word word word wor		dusty.	7	A. It always was done in the open, you
frough it?  A Yes, sir. Q And would you just go back to the toolroom and ask for another one? A Yes, sir. Q Did anybody and I'm I apologize if of you at Daniel Construction for how the mask fit to your face? A No, sir. Q Did anybody give you any instructions on how to fit the mask to your face at Daniel Construction? A No, sir. Q Do jud anybody give you any instructions on how to fit the mask to your face at Daniel Construction? A No, sir. Q Do you remember if there were any signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure? MR. POXWORTH: If you don't remember, you don't remember. Don't guess. Okay? A I don't know. MR. MANUEL: Q Do - the the chipping and concrete work that you did at the power plant, was it inside or outside? A Do how the make to you face at power plant, was it inside or outside? A Unless it rained, we had a tarp, you know, to keep keep the floor from getting wet. But if it's not raining, it always was open. Q So is when you talk about doing concrete work, you didn't do any of that at Daniel Construction?  A Yes. Q So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A Well, anytime you seen the safety man at Daniel Construction?  A Well, anytime you seen the safety man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to see when you be wrong or man, je's checking to s		•	8	know, unless you was in a room was closed in.
A. Yes, sir. 1 Q. And would you just go back to the 2 toolroom and ask for another one? 3 A. Yes, sir. 4 Q. Did anybody and I'm I apologize 5 if if I asked you this before lunch, but 1 6 don't remember. Did anybody do any fit testing of you at Daniel Construction for how the mask fit to your face? A. No, sir. C. Q. Did anybody give you any instructions on how to fit the mask to your face at Daniel Construction? A. No, sir. C. Q. Do you remember if there were any signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure? MR. FOXWORTH: If you don't remember, you don't remember. Don't guess. Okay? A. I don't know.  MR. MANUEL: Q. Do - the the chipping and concrete work that you did at the power plant, was it inside or outside? A. Both, inside and outside. Q. When you were doing the jackhammering in. Like how big was it? A. Well, it can be the size of this room know, like around the door, where the the concrete then then all get to the door. And you've got to chip the honeycomb out then and then re and then patch it. 2 Q. What precrentage of time would you say that you had to do any jackhammering inside during the years that you were there? Was it  Page 91  I less than 50 percent? A. Yeah, because yeah, I believe it was more. Q. In the rooms that you worked at, worked inside of at Daniel Construction, did they ever have any big fans or windows open or anything like that for ventilation? A. We had doors open, you know, but I don't I don't remember no fans. inside, what type of ventilation did they have in the in the places that you worked? A. Unless it rained, we had a tarp, you know, to her che size of this room re and then patch it. 2 Q. What precrentage of time would you say that you had to do any jackhammering inside during the yever have any big fans or windows open or anything like that for ventilation? A. Yea, because there was a bunch of them. Q. Did you have a safety man at Daniel Construction? A. We had doors open, you know, but I don't			9	Q. Okay. Do you remember doing any
Q. And would you just go back to the totoroom and ask for another one?   12	10	•	10	jackhammering at Daniel Construction in a
A. Yes, sir. Q. Did anybody — and I'm — I apologize if — if I asked you this before lunch, but I don't remember. Did anybody do any fit testing of you at Daniel Construction for how the mask if it your face? A. No, sir. Q. Did anybody give you any instructions on how to fit the mask to your face at Daniel Construction? A. No, sir. Q. Do you remember if there were any signs up at the power plant telling you about  Page 91 any dangers of dust or silica exposure? MR. FOXWORTH: If you don't remember, you don't remember. Don't guess. Okay? A. I don't know.  MR. MANUEL: I Q. Do — the — the chipping and concrete work that you did at the power plant, was it inside or outside? A. Both, inside and outside. Q. When you were doing concrete work inside, what type of ventilation did they have in the — in the places that you worked? A. Unless it rained, we had a tarp, you know, to keep — keep the floor from getting tit under a tarp? A. Yes. Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?	1		1 -	closed-in room?
Q. Did anybody — and I'm — I apologize if — if I asked you this before lunch, but I don't remember. Don't guess. Okay? A. No, sir. Q. Do you remember if there were any signs up at the power plant telling you about Temember. Don't guess. Okay? A. I don't know. MR. FOXWORTH: I flyou don't remember, you don't remember. Don't guess. Okay? A. I don't know. MR. MANUEL: Q. Do — the — the chipping and concrete work that you did at the power plant, was it inside or outside? A. Both, inside and outside. Q. When you were doing the jackhammering in. Like how big was it? A. We had doors open, you know, but I don't — lamp at Daniel Construction? A. We had doors open, you know, but I don't — I don't remember no fans. Q. So is — when you talk about doing concrete work, inside, you're talking about doing it under a tarp? A. Yes. Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction? A. Well, it can be the size of this room right have a honeycomb and tene, you were doing the jackhammering in. Like how big was it? A. Well, it can be the size of this room right here (witness indicating). And then, you were doing the jackhammering in. Like how big was it? A. Well, it can be the size of this room right here (witness indicating). And then, you know, like around the door, where the — the concrete the end in the oor, where the — the concrete the nall get to the door. And you winght have a honeycomb around it, and you've got to chip the honeycomb out then — and then re— a			12	A. Yeah.
tif if I asked you this before lunch, but I don't remember. Did anybody do any fit testing of you at Daniel Construction for how the mask fit to your face?  A. No, sir.  Q. Did anybody give you any instructions on how to fit the mask to your face at Daniel Construction?  A. No, sir.  Q. Do you remember if there were any signs up at the power plant telling you about signs up at the power plant telling you about signs up at the power plant telling you don't remember. Don't guess. Okay?  A. I don't know.  MR. MANUEL:  Q. Do the the chipping and concrete work that you did at the power plant, was it inside or outside?  A. Both, inside and outside.  Q. When you were doing concrete work inside, you're talking about doing oncorete work, sou didn't do any of that at Daniel Construction?  A. Yes.  Q. So is when you talk about doing of concrete work, you didn't do any of that at Daniel Construction?  A. Yes.  D. A. Well, it can be the size of this room right here (witness indicating). And then, you know, like around the door, where the the concrete then then all get to the door. And you might have a honeycomb around it, and you've got to chip the honeycomb and then re and then pack it.  Q. What percentage of time would you say that you had to do any jackhammering inside during the years that you were there? Was it sets than 50 percent?  A. Yesh, because yeah, I believe it was more.  Q. In the rooms that you worked at, worked inside of at Daniel Construction, did they ever have any big fans or windows open or anything like that for ventilation?  A. We had doors open, you know, but I don't I don't remember what his name was?  A. Well, anytime you seen the size of this room right here (witness indicating). And then, you don't remember the the concrete work and you got to chip the honeycomb out then and then re and then pack on the power plant then power plant telling you about  A. Undon't remember. You don't remember on fans.  Q. Do the the chipping and concrete work lain the places t		·	‡3	
don't remember. Did anybody do any fit testing of you at Daniel Construction for how the mask fit to your face?  A. No, sir. Q. Did anybody give you any instructions on how to fit the mask to your face at Daniel Construction?  A. No, sir. Q. Do you remember if there were any signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure? MR. FOXWORTH: If you don't remember, you don't remember. Don't guess. Okay? A. I don't know.  MR. MANUEL: Q. Do - the the chipping and concrete work that you did at the power plant, was it inside or outside? A. Unless it rained, we had a tarp, you was it inside or outside? A. Unless it rained, we had a tarp, you were doing concrete work inside, what type of ventilation did they have in the — in the places that you were doing concrete work were the work inside, you're talking about doing of concrete work, you didn't do any of that at Daniel Construction?  A. Yes. Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Yes. Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Yes, Well, anytime you seen the safety man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's chec			F	you were doing the jackhammering in. Like how
of you at Daniel Construction for how the mask if it to your face?  A. No, sir.  Q. Did anybody give you any instructions on how to fit the mask to your face at Daniel Construction?  A. No, sir.  Q. Do you remember if there were any signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure?  MR. FOXWORTH:  If you don't remember, you don't remember. Don't guess. Okay?  A. I don't know.  MR. MANUEL:  Q. Do the the chipping and concrete work that you did at the power plant, was it inside or outside?  A. Both, inside and outside.  Q. When you were doing concrete work inside, you've talking about doing oncrete work inside, you're talking about doing of concrete work inside, you're talking about doing of concrete work inside, you're talking about doing of concrete work, you didn't do any of that at Daniel Construction?  A. Yes,  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Yes.  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's checking to see when you be wrong or man, he's			1	
fit to your face?  A. No, sir.  Q. Did anybody give you any instructions on how to fit the mask to your face at Daniel Construction?  A. No, sir.  Q. Do you remember if there were any signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure?  MR. FOXWORTH:  1 fryou don't remember, you don't remember. Don't guess. Okay?  A. I don't know.  MR. MANUEL:  Q. Do - the - the chipping and concrete work that you did at the power plant, was it inside or outside?  A. Both, inside and outside.  Q. When you were doing concrete work inside, what type of ventilation did they have in the - in the places that you werked?  A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting turned at the power hand, it in under a tarp?  A. Yes.  Q. So is when you talk about doing concrete work inside, you're talking about doing tit under a tarp?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or anything like star for ventilation?  A. Yes.  A. Yes.  A. Yes.  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or anything lose when you be wrong or anything store with the safety man, he's checking to see when you be wrong or anything the years that you were there. Then all get to the door, And you've got to chip the honeyccomb out then and then re and then patch it.  Q. What percentage of time would you say that you had to do any jackhammering inside during the years that you were there? Was it that you had to do any jackhammering inside during the years that you were there? Was it hat you had to do any jackhammering inside of at Daniel Construction?  A. Yeah, because yeah, I believe it was more.  Q. Do the the chipping and the power plant, was more.  Q. Did you have a safety man at Daniel Construction?  A. Yes, sir.  Q. Do you remember what his name was?  A. No, because there wa			1	
A. No, sir. Q. Did anybody give you any instructions on how to fit the mask to your face at Daniel Construction? A. No, sir. Q. Do you remember if there were any signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure? MR. FOXWORTH: If you don't remember, you don't remember. Don't guess. Okay? A. I don't know.  MR. MANUEL: Q. Do - the the chipping and concrete work that you did at the power plant, was it inside or outside? A. Both, inside and outside. Q. When you were doing concrete work inside, what type of ventilation did they have in the in the places that you worked? A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting wet. But if it's not raining, it altways was open. Q. So is when you talk about doing tit under a tarp? A. Yes. Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction? A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	Į.		ŀ	right here (witness indicating). And then, you
Q. Did anybody give you any instructions on how to fit the mask to your face at Daniel Construction?  A. No, sir. Q. Do you remember if there were any signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure? MR. FOXWORTH: If you don't remember, you don't remember. Don't guess. Okay? A. I don't know. MR. MANUEL: Q. Do the the chipping and concrete work that you wid at the power plant, was it inside or outside? A. Both, inside and outside. Q. When you were doing concrete work inside, what type of ventilation did they have in the in the places that you worked? A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting time the remember work inside, you're talking about doing of concrete work inside, you're talking about doing of concrete work in under a tarp? Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Yes, Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Well, anytime you seen the safety man at Daniel Construction? on the would you save that you had to do any jackhammering inside during the years that you were there? Was it that you had to do any jackhammering inside during the years that you were there? Was it that you had to do any jackhammering inside during the years that you were there? Was it that you had to do any jackhammering inside during the years that you were there? Was it that you had to do any jackhammering inside during the years that you were there? Was it that you had to do any jackhammering inside during the years that you were there? Was it that you had to do any jackhammering inside during the years that you were there? Was it that you had to do any jackhammering inside during the years that you were there?  A. I believe it was more.  Q. More than 50 percent?  A. Yeah, because yeah, I believe it worked inside of at Daniel Construction, did they vere have any big fans or windows open		· · · · · · · · · · · · · · · · · · ·		know, like around the door, where the the
Construction? A. No, sir. Q. Do you remember if there were any signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure? MR. FOXWORTH:  If you don't remember, you don't remember. Don't guess. Okay? A. I don't know.  MR. MANUEL: Q. Do the the chipping and concrete work that you did at the power plant, was it inside or outside? A. Both, inside and outside. Q. When you were doing concrete work was it nhe in the places that you worked? A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting open. Q. So is when you talk about doing occrete work inside, you're talking about doing oding concrete work, you didn't do any jackhammering inside during the years that you were there? Was it that you had to do any jackhammering inside during the years that you were there? Was it that you had to do any jackhammering inside during the years that you were there? Was it that you don't was it may you don't remember, you don't was more. Q. More than 50 percent? A. Yeah, because yeah, I believe it was more. Q. In the rooms that you worked at, worked inside of at Daniel Construction, did they ever have any big fans or windows open or anything like that for ventilation? A. We had doors open, you know, but I don't I don't remember no fans. Q. Did you have a safety man at Daniel Construction? A. Yes, sir. Q. Do you remember what his name was? A. No, because there was a bunch of them. Q. And how what was the what kind of contact would you have with the safety man at Daniel Construction? Did he come around and talk to y'all and make sure you were doing A. Well, anytime you seen the safety at Daniel Construction? A. Well, anytime you seen the safety and have you have when you be wrong or			19	concrete then then all get to the door. And
Construction? A. No, sir. Q. Do you remember if there were any signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure? MR. FOXWORTH:  If you don't remember, you don't remember. Don't guess. Okay? A. I don't know.  MR. MANUEL: Q. Do the the chipping and concrete work that you did at the power plant, was it inside or outside? A. Both, inside and outside. Q. When you were doing concrete work was it nhe in the places that you worked? A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting open. Q. So is when you talk about doing occrete work inside, you're talking about doing oding concrete work, you didn't do any jackhammering inside during the years that you were there? Was it that you had to do any jackhammering inside during the years that you were there? Was it that you had to do any jackhammering inside during the years that you were there? Was it that you don't was it may you don't remember, you don't was more. Q. More than 50 percent? A. Yeah, because yeah, I believe it was more. Q. In the rooms that you worked at, worked inside of at Daniel Construction, did they ever have any big fans or windows open or anything like that for ventilation? A. We had doors open, you know, but I don't I don't remember no fans. Q. Did you have a safety man at Daniel Construction? A. Yes, sir. Q. Do you remember what his name was? A. No, because there was a bunch of them. Q. And how what was the what kind of contact would you have with the safety man at Daniel Construction? Did he come around and talk to y'all and make sure you were doing A. Well, anytime you seen the safety at Daniel Construction? A. Well, anytime you seen the safety and have you have when you be wrong or	10		1	you might have a honeycomb around it, and you've
A. No, sir. Q. Do you remember if there were any signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure? MR. FOXWORTH:  If you don't remember, you don't remember. Don't guess. Okay? A. I don't know.  MR. MANUEL: Q. Do the the chipping and concrete work that you did at the power plant, was it inside or outside? A. Both, inside and outside. Q. When you were doing concrete work inside, what type of ventilation did they have in the in the places that you worked? A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting wet. But if it's not raining, it always was open. Q. So is when you talk about doing concrete work inside, you're talking about doing of concrete work, you didn't do any of that at Daniel Construction? A. Yes. Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction? A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	I T			
4 Q. Do you remember if there were any signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure?  MR. FOXWORTH:  If you don't remember, you don't remember. Don't guess. Okay?  A. I don't know.  MR. MANUEL:  Q. Do - the the chipping and concrete work that you did at the power plant, was it inside or outside?  A. Both, inside and outside.  Q. When you were doing concrete work inside, what type of ventilation did they have in the in the places that you worked?  A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting wet. But if it's not raining, it always was open.  Q. So is when you talk about doing of concrete work inside, you're talking about doing of concrete work, you didn't do any of that at Daniel Construction?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that you had to do any jackhammering inside during the years that you were there? Was it that you had to do any jackhammering inside during the years that you were there? Was it  Page 93  that you had to do any jackhammering inside during the years that you were there? Was it  Page 93  Less than 50 percent?  A. I believe it was more.  Q. More than 50 percent?  A. Yeah, because yeah, I believe it was more.  Q. In the rooms that you worked at, worked inside of at Daniel Construction, did they ever have any big fans or windows open or anything like that for ventilation?  A. We had doors open, you know, but I don't I don't remember no fans.  Q. Did you have a safety man at Daniel Construction?  A. Yes, sir.  Q. Do you remember what his name was?  A. No, because there was a bunch of them.  Q. And how what was the what kind of contact would you have with the safety man at Daniel Construction? Did he come around and talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	22		22	
signs up at the power plant telling you about  Page 91  any dangers of dust or silica exposure?  MR. FOXWORTH:  If you don't remember, you don't remember. Don't guess. Okay?  A. I don't know.  MR. MANUEL:  Q. Do the the chipping and concrete work that you did at the power plant, was it inside or outside?  A. Both, inside and outside.  Q. When you were doing concrete work inside, what type of ventilation did they have in the in the places that you worked?  A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting wet. But if it's not raining, it always was open.  Q. So is when you talk about doing concrete work inside, you're talking about doing of concrete work inside, you're talking about doing of concrete work, you didn't do any of that at Daniel Construction?  A. Yesh, because yeah, I believe it was more.  A. Yeah, because yeah, I believe it was more.  Q. In the rooms that you worked at, worked inside of at Daniel Construction, did they ever have any big fans or windows open or anything like that for ventilation?  A. We had doors open, you know, but I don't I don't remember no fans.  I don't I don't remember no fans.  Q. Did you have a safety man at Daniel Construction?  A. Yes, in.  Q. Do you remember what his name was?  A. No, because there was a bunch of them.  Q. And how what was the what kind of contact would you have with the safety man at talk to y'all and make sure you were doing things?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or			ł	<ul> <li>Q. What percentage of time would you say</li> </ul>
Page 91  any dangers of dust or silica exposure?  MR. FOXWORTH:  If you don't remember, you don't  remember. Don't guess. Okay?  A. I don't know.  MR. MANUEL:  O. Do the the chipping and  concrete work that you did at the power plant,  was it inside or outside?  A. Both, inside and outside.  O. When you were doing concrete work inside, what type of ventilation did they have in the in the places that you worked?  A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting wet. But if it's not raining, it always was open.  O. So is when you talk about doing it under a tarp?  A. Yes.  O. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  I less than 50 percent?  A. I believe it was more.  O. More than 50 percent?  A. Yeah, because yeah, I believe it was more.  O. In the rooms that you worked at, worked inside of at Daniel Construction, did they ever have any big fans or windows open or anything like that for ventilation?  A. We had doors open, you know, but I don't I don't remember no fans.  O. Did you have a safety man at Daniel Construction?  A. Yes,  O. Do you remember what his name was?  A. No, because there was a bunch of them.  O. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction? Did he come around and talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or				
any dangers of dust or silica exposure?  MR. FOXWORTH:  If you don't remember, you don't remember. Don't guess. Okay?  A. I don't know.  MR. MANUEL:  Q. Do the the chipping and concrete work that you did at the power plant, was it inside or outside?  A. Both, inside and outside.  Q. When you were doing concrete work inside, what type of ventilation did they have in the in the places that you worked?  A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting wet. But fit's not raining, it always was open.  Q. So is when you talk about doing ot under a tarp?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  I less than 50 percent?  A. I believe it was more.  Q. More than 50 percent?  A. Yeah, because yeah, I believe it was more.  Q. In the rooms that you worked at, worked inside of at Daniel Construction, did they ever have any big fans or windows open or anything like that for ventilation?  A. We had doors open, you know, but I don't I don't remember no fans.  Q. Did you have a safety man at Daniel Construction?  A. Yes, sir. Q. Do you remember what his name was?  A. No, because there was a bunch of them.  Q. And how what was the what kind of contact would you have with the safety man at Daniel Construction? Did he come around and talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	25	signs up at the power plant telling you about	25	during the years that you were there? Was it
MR. FOXWORTH:  If you don't remember, you don't remember. Don't guess. Okay?  A. I don't know.  MR. MANUEL:  Q. Do the the chipping and concrete work that you did at the power plant, was it inside or outside?  A. Both, inside and outside. Q. When you were doing concrete work inside, what type of ventilation did they have in the in the places that you worked? A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting wet. But if it's not raining, it always was open. Q. So is when you talk about doing it under a tarp? A. Yeah, because yeah, I believe it was more. Q. In the rooms that you worked at, worked inside of at Daniel Construction, did they ever have any big fans or windows open or anything like that for ventilation? A. We had doors open, you know, but I don't I don't remember no fans. Q. Did you have a safety man at Daniel Construction?  A. Yes, sir. Q. Do you remember what his name was? A. No, because there was a bunch of them. Q. So is when you talk about doing it under a tarp? Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction? A. We had doors open, you know, but I don't I don't remember no fans. Q. Did you have a safety man at Daniel Construction? A. Yes, sir. Q. Do you remember what his name was? A. No, because there was a bunch of them. Q. And how what was the what kind of contact would you have with the safety man at Daniel Construction? Did he come around and talk to y'all and make sure you were doing things? A. Well, anytime you seen the safety man, he's checking to see when you be wrong or		Page 91		Page 93
MR. FOXWORTH:  If you don't remember, you don't remember. Don't guess. Okay?  A. I don't know.  MR. MANUEL:  Q. Do the the chipping and concrete work that you did at the power plant, was it inside or outside?  A. Both, inside and outside. Q. When you were doing concrete work inside, what type of ventilation did they have in the in the places that you worked? A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting wet. But if it's not raining, it always was open. Q. So is when you talk about doing it under a tarp? A. Yeah, because yeah, I believe it was more. Q. In the rooms that you worked at, worked inside of at Daniel Construction, did they ever have any big fans or windows open or anything like that for ventilation? A. We had doors open, you know, but I don't I don't remember no fans. Q. Did you have a safety man at Daniel Construction?  A. Yes, sir. Q. Do you remember what his name was? A. No, because there was a bunch of them. Q. So is when you talk about doing it under a tarp? Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction? A. We had doors open, you know, but I don't I don't remember no fans. Q. Did you have a safety man at Daniel Construction? A. Yes, sir. Q. Do you remember what his name was? A. No, because there was a bunch of them. Q. And how what was the what kind of contact would you have with the safety man at Daniel Construction? Did he come around and talk to y'all and make sure you were doing things? A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	1	any dangers of dust or silica exposure?	1	less than 50 percent?
If you don't remember, you don't remember. Don't guess. Okay?  A. I don't know.  MR. MANUEL:  Q. Do the the chipping and concrete work that you did at the power plant, was it inside or outside?  A. Both, inside and outside.  Q. When you were doing concrete work in the in the places that you worked?  A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting wet. But if it's not raining, it always was it under a tarp?  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or		MR. FOXWORTH:	1	
4 remember. Don't guess. Okay?  A. I don't know.  6 MR. MANUEL:  7 Q. Do the the chipping and  8 concrete work that you did at the power plant,  9 was it inside or outside?  1 Q. When you were doing concrete work  1 inside, what type of ventilation did they have  1 in the in the places that you worked?  2 A. Unless it rained, we had a tarp, you  4 A. Yeah, because yeah, I believe it  8 was more.  9 In the rooms that you worked at,  9 worked inside of at Daniel Construction, did  8 they ever have any big fans or windows open or  9 anything like that for ventilation?  1 don't I don't remember no fans.  1 Q. Did you have a safety man at Daniel  1 Construction?  1 A. Yes, sir.  1 Q. Do you remember what his name was?  1 A. No, because there was a bunch of of contact would you have with the safety man at Daniel Construction?  2 Q. And how what was the what kind of concrete work inside, you're talking about doing it under a tarp?  2 Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  4 A. Yes,  2 Q. Do you remember what his name was?  A. No, because there was a bunch of of contact would you have with the safety man at Daniel Construction? Did he come around and talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk to y'all and make sure you were doing talk talk to y'al	3	If you don't remember, you don't	3	
A. I don't know.  MR. MANUEL:  Q. Do the the chipping and concrete work that you did at the power plant, was it inside or outside?  A. Both, inside and outside. Q. When you were doing concrete work inside, what type of ventilation did they have in the in the places that you worked? A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting wet. But if it's not raining, it always was open.  Q. So is when you talk about doing it under a tarp? Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  Mas more. Q. In the rooms that you worked at, worked inside of at Daniel Construction, did they ever have any big fans or windows open or anything like that for ventilation? A. We had doors open, you know, but I don't I don't remember no fans. Q. Did you have a safety man at Daniel Construction?  A. Yes, sir. Q. Do you remember what his name was? A. No, because there was a bunch of them. Q. And how what was the what kind of contact would you have with the safety man at Daniel Construction? Did he come around and talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or		remember. Don't guess. Okay?	4	
Q. Do the the chipping and concrete work that you did at the power plant, was it inside or outside?  A. Both, inside and outside.  Q. When you were doing concrete work inside, what type of ventilation did they have in the in the places that you worked?  A. Unless it rained, we had a tarp, you wet. But if it's not raining, it always was open.  Q. So is when you talk about doing concrete work it under a tarp?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction, did they ever have any big fans or windows open or anything like that for ventilation, did they ever have any big fans or windows open or anything like that for ventilation?  A. We had doors open, you know, but I don't I don't remember no fans.  Q. Did you have a safety man at Daniel Construction?  A. Yes, sir.  Q. Do you remember what his name was?  A. No, because there was a bunch of them.  Q. And how what was the what kind of contact would you have with the safety man at talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	5		5	- ·
Q. Do the the chipping and concrete work that you did at the power plant, was it inside or outside?  A. Both, inside and outside.  Q. When you were doing concrete work inside, what type of ventilation did they have in the in the places that you worked?  A. Unless it rained, we had a tarp, you wet. But if it's not raining, it always was open.  Q. So is when you talk about doing concrete work it under a tarp?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Werked inside of at Daniel Construction, did they ever have any big fans or windows open or anything like that for ventilation?  A. We had doors open, you know, but I don't I don't remember no fans.  Q. Did you have a safety man at Daniel Construction?  A. Yes, sir.  Q. Do you remember what his name was?  A. No, because there was a bunch of them.  Q. And how what was the what kind of contact would you have with the safety man at talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	6	MR. MANUEL:	6	O. In the rooms that you worked at
they ever have any big fans or windows open or anything like that for ventilation?  A. Both, inside and outside.  Q. When you were doing concrete work inside, what type of ventilation did they have in the — in the places that you worked?  A. Unless it rained, we had a tarp, you wet. But if it's not raining, it always was open.  Q. So is — when you talk about doing concrete work it under a tarp?  A. Yes.  Q. Did you have a safety man at Daniel construction?  A. Yes, sir.  Q. Do you remember what his name was?  A. No, because there was a bunch of them.  Q. And how — what was the — what kind of contact would you have with the safety man at talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	7	Q. Do the the chipping and	7	
was it inside or outside?  A. Both, inside and outside.  Q. When you were doing concrete work inside, what type of ventilation did they have in the in the places that you worked?  A. Unless it rained, we had a tarp, you wet. But if it's not raining, it always was open.  Q. So is when you talk about doing concrete work inside, you're talking about doing it under a tarp?  A. Yes.  Q. Did you have a safety man at Daniel Construction?  A. Yes, sir.  Q. Do you remember what his name was?  A. No, because there was a bunch of them.  Q. And how what was the what kind of contact would you have with the safety man at Daniel Construction?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	8		8	
A. Both, inside and outside.  Q. When you were doing concrete work inside, what type of ventilation did they have in the — in the places that you worked?  A. Unless it rained, we had a tarp, you wet. But if it's not raining, it always was open.  Q. So is — when you talk about doing concrete work inside, you're talking about doing it under a tarp?  A. Yes.  Q. Did you have a safety man at Daniel Construction?  A. Yes, sir.  Q. Do you remember what his name was?  A. No, because there was a bunch of them.  Q. And how — what was the — what kind of contact would you have with the safety man at talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	9		9	
Q. When you were doing concrete work inside, what type of ventilation did they have inside, what type of ventilation did they have in the in the places that you worked?  A. Unless it rained, we had a tarp, you 4 A. Yes, sir.  know, to keep keep the floor from getting wet. But if it's not raining, it always was open.  Q. So is when you talk about doing concrete work inside, you're talking about doing it under a tarp?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	LO	A. Both, inside and outside.	10	
inside, what type of ventilation did they have in the in the places that you worked?  A. Unless it rained, we had a tarp, you know, to keep keep the floor from getting wet. But if it's not raining, it always was open.  Q. So is when you talk about doing concrete work inside, you're talking about doing it under a tarp?  A. Yes.  Q. Do you remember what his name was?  A. No, because there was a bunch of them.  Q. And how what was the what kind of contact would you have with the safety man at talk to y'all and make sure you were doing things?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or		· · · · · · · · · · · · · · · · · · ·	11	don't I don't remember no fans.
A. Unless it rained, we had a tarp, you  know, to keep keep the floor from getting  wet. But if it's not raining, it always was  open.  Q. So is when you talk about doing  concrete work inside, you're talking about doing  it under a tarp?  A. Yes.  Q. So as far as being inside a building  doing concrete work, you didn't do any of that  at Daniel Construction?  A. Well, anytime you seen the safety  man, he's checking to see when you be wrong or			12	
know, to keep keep the floor from getting wet. But if it's not raining, it always was open.  Q. So is when you talk about doing concrete work inside, you're talking about doing it under a tarp?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  Q. Do you remember what his name was?  A. No, because there was a bunch of them.  Q. And how what was the what kind of contact would you have with the safety man at talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	L 3		13	
know, to keep keep the floor from getting wet. But if it's not raining, it always was open.  Q. So is when you talk about doing concrete work inside, you're talking about doing it under a tarp?  A. Yes. Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  Q. Do you remember what his name was?  A. No, because there was a bunch of them.  Q. And how what was the what kind of contact would you have with the safety man at talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	4	A. Unless it rained, we had a tarp, you	14	A. Yes, sir.
wet. But if it's not raining, it always was open.  Q. So is — when you talk about doing concrete work inside, you're talking about doing it under a tarp?  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  A. No, because there was a bunch of them.  Q. And how — what was the — what kind of contact would you have with the safety man at talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	. 5	know, to keep keep the floor from getting	15	
open.  Q. So is when you talk about doing concrete work inside, you're talking about doing it under a tarp?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  Them.  Q. And how what was the what kind of contact would you have with the safety man at talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	. 6		4	
concrete work inside, you're talking about doing it under a tarp?  A. Yes.  Q. So as far as being inside a building  doing concrete work, you didn't do any of that at Daniel Construction?  Daniel Construction?  Daniel Construction?  Daniel Construction?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	. 7	•	17	
concrete work inside, you're talking about doing it under a tarp?  A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  John Contact would you have with the safety man at Daniel Construction? Did he come around and talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	. 8	•	18	Q. And how what was the what kind
1 A. Yes. 2 Q. So as far as being inside a building 2 things? 3 doing concrete work, you didn't do any of that 4 at Daniel Construction? 2 Daniel Construction? Did he come around and talk to y'all and make sure you were doing 2 things? 3 A. Well, anytime you seen the safety 2 man, he's checking to see when you be wrong or	. 9		19	
A. Yes.  Q. So as far as being inside a building doing concrete work, you didn't do any of that at Daniel Construction?  2 talk to y'all and make sure you were doing things?  A. Well, anytime you seen the safety man, he's checking to see when you be wrong or	0	•		Daniel Construction? Did he come around and
Q. So as far as being inside a building 22 things?  doing concrete work, you didn't do any of that 23 A. Well, anytime you seen the safety 24 man, he's checking to see when you be wrong or	1			
4 at Daniel Construction? 24 man, he's checking to see when you be wrong or	2	Q. So as far as being inside a building		
4 at Daniel Construction? 24 man, he's checking to see when you be wrong or	3		23	A. Well, anytime you seen the safety
5 A. Patching. \$\frac{1}{2}5\$ something like that. That's the only time I	4		2	man, he's checking to see when you be wrong or
The state of the s	5	A. Patching.	<u>‡</u> 5	something like that. That's the only time I

	Page 9	94	Page 96
1	really see them, you know, because I always try	1	lot of peoples.
2	to, you know, stay on the right foot.	2	
3	Q. Do you know if the safety man that	3	
4	you saw worked for the power plant, or did he	4	people?
5	work for Daniel Construction?	5	A. Yes, sir.
6	A. I think he worked for Daniel. I	6	Q. Is that the only time that you
7	believe he did.	7	remember seeing anybody from OSHA out there at
8	Q. Would the safety man be the person	8	the power plant?
9	that also ran the safety meetings?	9	A. Yes, sir.
10	A. No, sir.	10	Q. While you worked for Daniel
11	Q. Who ran the safety meetings?	11	Construction, did did they have you take
2	A. You your supervisor I mean,	12	physical exams? I mean, you know, did they have
13	your foreman or your supervisor.	13	you go to see a company doctor on a regular
14	Q. Do you remember the names of of	14	basis or anything like that?
5	any of your foremen or supervisors at Daniel	15	A. Well, the the only doctor I seen
6	Construction?	16	was the ones on the job. Like I got cement in
7	A. I'm going to have to think on that	17	my eye, got a rebar, you know, in your arm, you
8	one. I don't know for sure.	18	know, so far, and you had to go they send you
9	Q. If you think of their names, will you	19	to the to the doctor.
20	tell your attorney and tell him to pass the info	20	Q. But as far as like a just a
21	on to us?	21	regular like if they'd say, Mr. McGilberry,
22	A. Yes, sir.	22	it's time for you to go have your regular
23	Q. Do you stay in touch with anybody	23	checkup for Daniel Construction, did they ever
24	that you worked with at Daniel Construction?	24	do anything like that?
25	A. I hadn't talked to nobody since I	25	A. No, sir.
	Page 9	5	Page 97
1	left from up there.	1	Q. Did they give you any kind of
2	Q. Do you remember if you saw anybody	2	medical exam when you got hired on at Daniel
3	doing any air monitoring or testing the air	3	Construction?
4	levels at Daniel Construction, testing the air	4	A. No, sir.
5	quality	5	Q. Did you work and I apologize if I
6	A. What you mean, you know? Like what	6	asked this before; I may have, but I'm not sure.
7	they saying testing and then, you know, I	7	Is the power plant in North Carolina the only
.8	don't know how they test it, you know. You have	8	place that you worked for Daniel Construction?
9	to kind of explain to me what I need to know	9	A. Yes, sir.
. 0	for	10	Q. And did you work any other jobs
. 1	MR. FOXWORTH:	11	besides as a laborer at Daniel Construction?
.2	Just tell him	12	A. No, sir.
3	mR. MANUEL:	13	Q. So you never were a supervisor or a
4	Q. Do you know did were you ever	14	foreman?
5	told that anybody was in there doing any testing	5	A. No, sir.
6	of the quality of the air?	16	Q. And you described for me the the
7	A. No, sir. No, sir.	‡7	white mask with the with the blue strap. Is
8	Q. Okay. Did you ever see anybody from	18	that the only type of dust mask that you wore
9	OSHA come out there?	19	while you worked at Daniel Construction?
0	A. Yes, sir.	20	A. Yes, sir.
1	Q. Well, do you remember what the OSHA	21	Q. All right. Why did you leave Daniel
2	people came out to the power plant for?	22	Construction?
3	A. We had a bad accident.	23	A. Cutting back on jobs.
4 5	<ul><li>Q. What kind of accident was it?</li><li>A. We had a big cable fell and hurt a</li></ul>	24 25	Q. You were laid off from there?  A. Got laid off.
	A. We had a big cable fell and hurt a		A. Got laid off.

	Page 9	98	Page 10	0
1	Q. All right. And I meant to ask you	]	Laurel, Mississippi; Collins, Mississippi. We	
2	the same thing. Why did you stop working with	1	2 did some work in Stringer Stringer,	
3	Mr. Pittman is that his name?	3	3 Mississippi.	
4	A. Uh-huh.	4	• •	
5	Q. Why why did you stop working with	5	Did you say Stringer?	
6	him?	16		
7	A. Better job.	7	Yeah, it's it's well, the it	
8	Q. Better job.	8	3 was at the Jones and the Jasper County line, so	
9	When we were talking about the stairs	9	I'm going to say Stringer. It's it's	
10	that you were sand that you that you were	10	MR. FOXWORTH:	
11	around the sandblasting of for Pittman, what	11		
12	what were those stairs made out of?	12	· · · · · ·	
13	<ul> <li>A. They was iron stairs. They had</li> </ul>	13	That's where its office is at.	
14	the the grates like the barbecue pits have on	14		
15	them.	<b>1</b> 5		
16	Q. How big were they? I mean, how far	16		
17	up did the stairs go?	17	· · · · · · · · · · · · ·	
18	MR. FOXWORTH:	18	\$ 1 111 - 11 <sub>2</sub> 111 - 11	
19	Are you talking about how many	19	<b>,</b>	
20	flights; is that what you're	2≉0	A. That's the one that owned the	ļ
20 21 22	MR. MANUEL:	21	<b>Fy</b> -	
22	Yeah. I was just curious as to how	2		
23 24	big of a	⊉3	working on at these different locations?	
	A. I think it might	24	0 1 0	
25	MR. MANUEL:	25	buildings, pouring concrete.	
	Page 9	9	Page 101	Ĺ
1	•		-	L
1 2	Page 9 flight of stairs they were. THE WITNESS:	1	Q. Were these all commercial buildings,	L
	flight of stairs they were. THE WITNESS:	1 2	Q. Were these all commercial buildings, or were any of them houses?	L
2	flight of stairs they were.	1	<ul><li>Q. Were these all commercial buildings,</li><li>or were any of them houses?</li><li>A. Churches. You know, we did churches,</li></ul>	L
2	flight of stairs they were. THE WITNESS: I don't want to guess at it. MR. MANUEL:	1 2 3	<ul> <li>Q. Were these all commercial buildings,</li> <li>or were any of them houses?</li> <li>A. Churches. You know, we did churches,</li> <li>remodeled churches, add to them and stuff like</li> </ul>	L
2 3 4	flight of stairs they were.  THE WITNESS:  I don't want to guess at it.  MR. MANUEL:  Q. I mean, is it more than one story	1 2 3 4	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the	
2 3 4 5	flight of stairs they were. THE WITNESS: I don't want to guess at it. MR. MANUEL:	1 2 3 4 5	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the	
2 3 4 5 6	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or	1 2 3 4 5 6	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all	
2 3 4 5 6 7	flight of stairs they were.  THE WITNESS:  I don't want to guess at it.  MR. MANUEL:  Q. I mean, is it more than one story or  A. Yeah, it was it was higher than	1 2 3 4 5 6 7	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.	
2 3 4 5 6 7 8	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or     A. Yeah, it was it was higher than one story.	1 2 3 4 5 6 7 8	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the	
2 3 4 5 6 7 8 9	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or     A. Yeah, it was it was higher than one story.     Q. The the sandblasting that went on	1 2 3 4 5 6 7 8 9	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.	The second control of the second seco
23456789012	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or     A. Yeah, it was it was higher than one story.     Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything like that to do it?	1 2 3 4 5 6 7 8 9 0	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the	(Appl. Water cond.
2345678901	flight of stairs they were.  THE WITNESS:  I don't want to guess at it.  MR. MANUEL:  Q. I mean, is it more than one story or  A. Yeah, it was it was higher than one story.  Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything	1 2 3 4 5 6 7 8 9 0 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.  Q. But no houses, no individ no individual homes or anything like that?	The first of the second control of the secon
2345678901234	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or     A. Yeah, it was it was higher than one story.     Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything like that to do it?	1 2 3 4 5 6 7 8 9 0 1 2	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.  Q. But no houses, no individ no individual homes or anything like that?	Weight man 1881 (still di Man 1980) over transporter avent de Sansamon
234567890123	flight of stairs they were.  THE WITNESS:  I don't want to guess at it.  MR. MANUEL:  Q. I mean, is it more than one story or  A. Yeah, it was it was higher than one story.  Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything like that to do it?  A. No, sir. We did it right there on the you know, it was it was still there.  Q. So you just walked up	1234567890123	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.  Q. But no houses, no individ no individual homes or anything like that?  A. Well, the only home we done, that's	And the second of the second o
234567890123456	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or     A. Yeah, it was it was higher than one story.     Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything like that to do it?  A. No, sir. We did it right there on the you know, it was it was still there.	1 2 3 4 5 6 7 8 9 0 1 1 2 3 4	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.  Q. But no houses, no individ no individual homes or anything like that?  A. Well, the only home we done, that's where I did the sandblasting at.	A STATE OF THE PROPERTY OF THE
23456789012345	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or     A. Yeah, it was it was higher than one story.     Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything like that to do it?     A. No, sir. We did it right there on the you know, it was it was still there.     Q. So you just walked up     A. Yes, sir.     Q. They walked up the steps while they	1 2 3 4 5 6 7 8 9 0 1 1 2 3 4 4 5 5	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.  Q. But no houses, no individ no individual homes or anything like that?  A. Well, the only home we done, that's where I did the sandblasting at.  Q. Okay. Do you remember whose home	1. Option of Application of Control of Contr
234567890123456	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or     A. Yeah, it was it was higher than one story.     Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything like that to do it?     A. No, sir. We did it right there on the you know, it was it was still there.     Q. So you just walked up     A. Yes, sir.	1 2 3 4 5 6 7 8 9 0 1 1 2 3 4 5 6 6 7 8 9 0 1 1 2 3 4 5 6 6 7 8 9 0 1 1 2 3 4 5 6 6 7 8 9 0 1 1 2 3 4 5 6 6 7 8 9 0 1 1 2 3 4 5 6 7 8 9 0 1 1 2 3 4 6 7 8 9 0 1 1 2 2 3 4 6 7 8 9 0 1 1 2 2 3 4 6 7 8 9 0 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.  Q. But no houses, no individ no individual homes or anything like that?  A. Well, the only home we done, that's where I did the sandblasting at.  Q. Okay. Do you remember whose home that was?	o positive protection of the contraction of the con
2345678901234567	flight of stairs they were.  THE WITNESS:  I don't want to guess at it.  MR. MANUEL:  Q. I mean, is it more than one story or  A. Yeah, it was it was higher than one story.  Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything like that to do it?  A. No, sir. We did it right there on the you know, it was it was still there.  Q. So you just walked up  A. Yes, sir.  Q. They walked up the steps while they did them?  A. Uh-huh.	123456789011234567	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.  Q. But no houses, no individ no individual homes or anything like that?  A. Well, the only home we done, that's where I did the sandblasting at.  Q. Okay. Do you remember whose home that was?  A. His.	and the control of the state of the control of the second of the control of the c
23456789012345678	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or     A. Yeah, it was it was higher than one story.     Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything like that to do it?     A. No, sir. We did it right there on the you know, it was it was still there.     Q. So you just walked up     A. Yes, sir.     Q. They walked up the steps while they did them?	123456789012345678	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.  Q. But no houses, no individ no individual homes or anything like that?  A. Well, the only home we done, that's where I did the sandblasting at.  Q. Okay. Do you remember whose home that was?  A. His.  Q. Oh, Mr. Myrick's home?	The second of th
23456789012345678901	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or     A. Yeah, it was it was higher than one story.     Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything like that to do it?     A. No, sir. We did it right there on the you know, it was it was still there.     Q. So you just walked up     A. Yes, sir.     Q. They walked up the steps while they did them?     A. Uh-huh.     Q. Do you the next place that I have that you believe you may have been exposed to	1234567890123456789	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.  Q. But no houses, no individ no individual homes or anything like that?  A. Well, the only home we done, that's where I did the sandblasting at.  Q. Okay. Do you remember whose home that was?  A. His.  Q. Oh, Mr. Myrick's home?  A. Uh-huh.	10.15.2.1.7.7.7.7.7.7.7.7.7.7.7.7.7.7.7.7.7.7
234567890123456789012	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or     A. Yeah, it was it was higher than one story.     Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything like that to do it?     A. No, sir. We did it right there on the you know, it was it was still there.     Q. So you just walked up     A. Yes, sir.     Q. They walked up the steps while they did them?     A. Uh-huh.     Q. Do you the next place that I have that you believe you may have been exposed to silica is Gordon Myrick. Where did you do work	1234567890123456789012	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.  Q. But no houses, no individ no individual homes or anything like that?  A. Well, the only home we done, that's where I did the sandblasting at.  Q. Okay. Do you remember whose home that was?  A. His.  Q. Oh, Mr. Myrick's home?  A. Uh-huh.  Q. Was it a pretty big house?	9-H12H15-21-70 P 9-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S
23456789012345678901	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or     A. Yeah, it was it was higher than one story.     Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything like that to do it?     A. No, sir. We did it right there on the you know, it was it was still there.     Q. So you just walked up     A. Yes, sir.     Q. They walked up the steps while they did them?     A. Uh-huh.     Q. Do you the next place that I have that you believe you may have been exposed to silica is Gordon Myrick. Where did you do work for Gordon Myrick?	123456789012345678901	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.  Q. But no houses, no individ no individual homes or anything like that?  A. Well, the only home we done, that's where I did the sandblasting at.  Q. Okay. Do you remember whose home that was?  A. His.  Q. Oh, Mr. Myrick's home?  A. Uh-huh.  Q. Was it a pretty big house?  A. Yeah.	With the Tablic Labor of the Control
23456789012345678901234	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or     A. Yeah, it was it was higher than one story.     Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything like that to do it?     A. No, sir. We did it right there on the you know, it was it was still there.     Q. So you just walked up     A. Yes, sir.     Q. They walked up the steps while they did them?     A. Uh-huh.     Q. Do you the next place that I have that you believe you may have been exposed to silica is Gordon Myrick. Where did you do work for Gordon Myrick?     A. We did work in Ellisville.	123456789012345678901234	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.  Q. But no houses, no individ no individual homes or anything like that?  A. Well, the only home we done, that's where I did the sandblasting at.  Q. Okay. Do you remember whose home that was?  A. His.  Q. Oh, Mr. Myrick's home?  A. Uh-huh.  Q. Was it a pretty big house?  A. Yeah.  Q. What do you remember when it	TOTAL NOT THE STATE OF STATE O
2345678901234567890123	flight of stairs they were.  THE WITNESS:     I don't want to guess at it.  MR. MANUEL:     Q. I mean, is it more than one story or     A. Yeah, it was it was higher than one story.     Q. The the sandblasting that went on on these stairs, did anybody have to get up in any kind of cherry picker or crane or anything like that to do it?     A. No, sir. We did it right there on the you know, it was it was still there.     Q. So you just walked up     A. Yes, sir.     Q. They walked up the steps while they did them?     A. Uh-huh.     Q. Do you the next place that I have that you believe you may have been exposed to silica is Gordon Myrick. Where did you do work for Gordon Myrick?	12345678901234567890123	Q. Were these all commercial buildings, or were any of them houses?  A. Churches. You know, we did churches, remodeled churches, add to them and stuff like that. Worked in the oil, oil field. We did the fence right here (witness indicating), on the other side of the rail, like where you see all the oil wells at. We did that.  We did a lot of buildings at the college in Ellisville.  Q. But no houses, no individ no individual homes or anything like that?  A. Well, the only home we done, that's where I did the sandblasting at.  Q. Okay. Do you remember whose home that was?  A. His.  Q. Oh, Mr. Myrick's home?  A. Uh-huh.  Q. Was it a pretty big house?  A. Yeah.  Q. What do you remember when it was that y'all were working on Mr. Myrick's	AN TOWN THE AND ALCOHOLD THE

Г			
	Page 10	)2	Page 10
1 2		1	cy an do any of the work
3		2	The Property Law are ord periods.
4	3	3	
5		4	Q. So they framed up Mr. Myrick's house
6	· <b>∵</b>	5	1 Per sara torigue and groote mode on
7		6	the - on the walls. And then, y'all went in
8	c =  Journalison if it was carry in	7	and
9	7	8	A. On the floors.
Lo	,	9	Q sandblasted?
1		10	A. Yes, sir.
12		11	Q. Was there a roof on the house at the
3		12	time?
4	that you were around was working on Mr. Myrick's	13	A. Yes, sir.
5	house?	14	Q. The do y'all know what kind of
6	A. Yes, sir.	15 16	material y'all were using to blast with?
7	Q. What were y'all sandblasting at	$\frac{1}{7}$	A. What kind of sand?
8	Mr. Myrick's house?	18	Q. Yeah. Oh, was it was it sand; is that what it was?
19	A. He well, the wood that we had	19	· · · · · · · · · · · · · · · · · · ·
20	they had built the house with, they had it	20	
21	was some old wood. They took it out the school.	Ž1	Q. Was it always sand that you used?
22	You know, like off the floor, that tongue and	‡± 22	A. All I know, it was sand. Q. Did you ever do any of the loading of
2₃	groove wood. And we were sandblasting and	23	Q. Did you ever do any of the loading of the pot or the equipment used to sandblast?
₽4	taking the the wax off of the wood.	24	A. I had to tend the pot.
25	Q. Really? Did it tear the wood up at	<b>2</b> 5	Q. Okay. So you had to load it?
	Page 105		
],	Page 103	)	Page 105
1 2	all? A. Huh-uh.	1	A. Yes, sir.
3		2	Q. Tell me about that pot that y'all
4		3	used in Mr. Myrick's house.
5	take the wax off the wood that y'all used to build the house?	4	MR. FOXWORTH:
6	A. It was it was quite awhile. I'm	5 6	What?
7	not for sure what how many days or weeks it	7	THE WITNESS:
8	took, but it was it was quite	8	Give me that book. Let me see your book.
9	awhile.	9	MR. FOXWORTH:
10	Q. And how many what did you do with	10	Describe it to him.
1	regard to the blasting of that wood?	Ţ1	THE WITNESS:
2	A. All I did was tend the pot and sweep	$I_2$	Describe it to him?
13	the sand and stuff up.	13	MR. FOXWORTH:
. 4	Q. Where were y'all doing the blasting	14	Yes.
_5	of the wood; was it outside or inside?	15	MR. MANUEL:
6	A. It was on the inside.	16	Q. Would it be easier for you to draw a
L 7	Q. So the the wood that and this	17	picture?
8	is wood that they pulled up from the floors	18	MR. FOXWORTH:
9	A. Right.	19	You want to draw him a picture?
20		20	A. Which one you want first, the pot?
?1	A. Right, right, right.	⊉1	MR. MANUEL:
22	at the second of	22	Q. The pot, yes, sir.
23		₽3	MR. FOXWORTH:
4	A. The whole house, the walls and	4	Okay. While he's while he's
5	everything.	5	drawing, let's take a break.

Γ			
	Page 10	06	Page 10
1	MR. MANUEL:		strange question. If you were to want to grab
2	Okay.		around that pot, could you have reached all the
3	VIDEO TECHNICIAN:		way around it and touched your fingers on the
4	Off the record. The time is 1:53.	1	other side?
5	(Off the record.)	- 1	
6	VIDEO TECHNICIAN:	- 1	
		ŧ	Q. Okay. Do you remember what color the
7	Back on record. The time is 1:59.		F
8	MR. MANUEL:	8	
9	Q. Mr. McGilberry, you've done a drawing	15	darker color pot.
10	for us that I'm going to make as Exhibit 4 to	10	the second
11	this deposition of it's a good drawing.	11	
12	A. Thank you.	12	
13	Q the	13	
4	MR. FOXWORTH:	14	
15	Let's see who likes it the best.	15	
16	MR. MANUEL:	16	
17	Q. Is this - is this the pot that you	[7	
18	worked with in Mr. Myrick's house?	18	plus sign in the middle of it?
	A. Yes, sir.	19	
<u></u>	Q. Okay. I'm going to	1	
19 20 21 22 22	MR. MANUEL:	20	
12		21	
23	Let me get this marked as Exhibit 4.	22	
	(Exhibit 4 was marked.)	23	-
24	MR. MANUEL:	24	
25	Q. I'm going to ask you a couple of	25	Q. Okay. Did you ever open that door on
	Page 10	7	Page 109
1	questions about what about your drawing.	1	the side of it?
2	Tell me, there on the left side,	2	A. Not as I remember, sir.
3	you've got a something sticking out up at the	3	Q. And you've got a series of dotted
4	top. Could you tell me what	4	Q
5	A. That's the handle.	5	that
6	Q. It was a handle?	6	A. Okay. By
7	A. Yeah. Where you you can since	7	Q shows.
8	they've got the wheels on them, you can, you	8	A looking at it, you can't you
9	know, pull it back, and it will roll.	9	can't see the the valley in it (witness
0	Q. Okay. How did you have to move	10	indicating). So that's why I put the dotted
1	this machine?	11	line like that
2	A. No, I didn't I don't remember	$\frac{1}{2}$	1777
3	moving it.	13	Q. So it
4	Q. Could one person move it?	l .	A hidden lines.
5	A. I don't think so.	14	Q. It was on the inside of the pot,
		15	it was kind of it was
.6	Q. So it would take more than one person	16	A. Yeah, a valley.
17	to move it?	17	Q cone shaped or
_8	A. Yes, sir.	18	A. More like a valley type.
9	Q. Do you remember how tall it was? Was	19	Q. A valley. And did it have a lid on
20	it taller than you?	20	it at all?
?1	A. No. Because I I can see over in	21	A. No, sir. It might have. I don't
22	it.	22	know. I don't know for sure.
23	Q. And how tall are you?	2⁄3	Q. Did could you did you have to
24	A. I'm about 5'11".	24	turn the pot off to load the sand into it, or
2.5	Q. And I'm going to ask you that same	25	could you load it while it was running?
		1 "	J A

	Page 11	0	Page 1	12
1	A. I load it while it was running		l air compressor.	
2	because I like I say, I never did let it get		Q. What did the what color was the	
3	empty.	3	3 air compressor?	
4	Q. Do you know how many people could	4	-	
5	blast off of that pot at one time?	5		
6	A. No, sir.	16	that. I'm not for sure. I know that it was	
7	Q. Did you ever see any more than one	17		
8	person blast off of it?	8	Q. Are the two colors you remember gray	
9	A. No, sir. Just one.	9	and brown?	
10	Q. Do you off on the right side of	‡ C	A. No. It's it's that cream color	
11	the picture, there's a piece that looks to be	11	a Barrig to be one of the colors.	
12	going down to the floor and up. Can you tell me	12		
13	what that is?	13	other color was either gray or brown?	
14	A. That should be the the air line.	14	1 2 2 3 3 3 1 1	
15 16	Q. Is that what would that be hooked	15	J	
‡°	up to?  A. That's the air line that he uses	16	y and state our aims an oomproper,	
† <sub>8</sub>	A. That's the air line that he uses to to sandblast with.	17	7 1 to 1 1 girl Oztikana, 1 doitt.	
19		18		
20	Q. Oh, okay. So there would be a man on that	19	*	j
21	A. On that end.	20		
22	Q. On that end.	21	the other side of it.	
23	Do you know how that line was	<sup>2</sup> 2 23	Q. Okay. So it's just right up to your	
24	controlled? Or did you ever see how it was	1	eye level?	
5	controlled?	₽4 25	A. Uh-huh. Might be a little bit	-
<del></del>		┪	shorter or something like that.	
,	Page 111		Page 11	.3
1	A. All I remember, it was a pretty big	1	Q. Did it have any wheels on it?	
2	hose. And it as it got to the end, it	2	A. Yes, sir.	
4	got it got narrow, you know, smaller. I never did try to use it.	3	Q. How many wheels?	
5	•	4	A. Two wheels.	
6	Q. Do you have any idea how they could control the air/sand mixture on that pot y'all	5	Q. Could did you ever move the air	2
7	used at Mr. Myrick's house?	6	compressor?	
8	A. I'm not for sure did he have the	8	A. Yeah.	Jan San
9	the nozzle you mash with your hand or the the	9	<ul><li>Q. So one person could move it?</li><li>A. No.</li></ul>	- Sec.
.0	nozzle you you turn. I like I say, I'm	lo	Q. Oh. How many	
.1	not for sure.	11	A. You didn't want to hurt yourself.	
.2	Q. You said that you didn't let the pot	2	Q. How many people did it take to move	
3	get empty while y'all were in there working. Do	3	it?	(T) (B) (1)
4	you know how much sand the pot would hold?	4	A. It would take two or three to move	1000
5	A. I don't know.	.5	it.	2000000
6	Q. Did hold on a second.	6	Q. Do you know how the air compressor	E. Verez Co.
7	Do you remember any writing on the	7	was powered?	William
8	side of that pot?	8	A. Diesel.	NATION.
9	A. I can't remember.	9	Q. And do you know how much air pressure	04470481
0	Q. Did do you know if the pot was	0	it provided?	on such
1	new, or what condition the pot was in?	21	A. No, sir. I know it – it will blow.	1
2		22	Q. Did did you ever start the	N. Arrabaya
3		23	compressor?	The state of the s
4	Q. How was the blasting pot powered?	4	A. Yes, sir.	discount
5	A. It had a big generator, a compressor,	5	Q. How did it what did you use to	1

	Page 114		Page 116	5
1	start it?	1	Q. In bags. Did you use any sand in	
2	A. Well, it's got its own switch and a	2	Mr. Myrick's house other than that bag sand?	ı
3	button to mash.	3	A. No, sir.	
4	Q. So you'd switch the on switch	4	Q. And tell me what the bag sand, what	
5	A. Switch it on and mash the button.	5	the bags looked like that you used for Mr.	i
6	Q and then press the button?	6	Myrick's house. What color was the bag?	
7	<ol> <li>A. I had to pull the choke out.</li> </ol>	7	A. Brown and red.	
8	Q. You had to pull a choke out, too?	8	Q. Brown and red. The the bag it	
9	A. Uh-huh.	9	the bag itself was brown and red?	
10	Q. How close was the compressor to the	10	A. Yes, sir.	
11	sandblasting pot when y'all were working in the	11	Q. Was there any what part of it was	
12	house?	12	brown and what part of it was red, I guess I	
13	A. Maybe 10 foot.	13	should ask?	
14	Q. And when you were tending the pot	14	A. The reason I'm saying brown and red,	
15	there in the house, how close were you to the	15	a lot of the writing was was was red, and	
6	man that was doing the blasting?	16	the bag was brown itself.	
17	A. I don't want to guess at it. I'm not	17	Q. All right. Do you know what any of	
18	for sure.	$\frac{18}{19}$	the writing said; do you remember?  A. All it said is sandblasting. I'm not	
19	Q. Do you know if it was more than	20	for sure what what did it say.	
20 21	10 feet away? A. More.	Į1	Q. But you do remember it said sandblast	ı
f 1	Q. More than 25 feet away?	22	on it?	
22 23	A. More.	23	A. Sand.	
24	Q. More than 50 feet away?	24	Q. Do you remember if there were any	
25 25	MR. FOXWORTH:	Ž5	warnings on the bags?	ı
		<del></del> -	<u> </u>	
	Page 115	; <b> </b>	Page 117	7
1	Page 115	_	Page 117  A Not as I know of	7
1 2	Don't	1	A. Not as I know of.	7
2	Don't A. That's guessing at it.	1 2	<ul><li>A. Not as I know of.</li><li>Q. How big were the bags that you used</li></ul>	7
2	Don't A. That's guessing at it. MR. FOXWORTH:	1 2 3	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess?	7
2 3 4	Don't A. That's guessing at it. MR. FOXWORTH: Yeah.	1 2	<ul><li>A. Not as I know of.</li><li>Q. How big were the bags that you used out there? How many pounds, I guess?</li><li>A. I think it was 100 pounds.</li></ul>	7
2 3 4 5	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL:	1 2 3 4	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess?	7
2 3 4	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL: Q. Okay.	1 2 3 4 5	<ul> <li>A. Not as I know of.</li> <li>Q. How big were the bags that you used out there? How many pounds, I guess?</li> <li>A. I think it was 100 pounds.</li> <li>Q. Do you know where those 100-pound bags of sand came from that y'all used at</li> </ul>	7
2 3 4 5 6	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL:	1 2 3 4 5 6	<ul> <li>A. Not as I know of.</li> <li>Q. How big were the bags that you used out there? How many pounds, I guess?</li> <li>A. I think it was 100 pounds.</li> <li>Q. Do you know where those 100-pound</li> </ul>	7
2 3 4 5 6 7	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL: Q. Okay. MR. FOXWORTH:	1 2 3 4 5 6 7	<ul> <li>A. Not as I know of.</li> <li>Q. How big were the bags that you used out there? How many pounds, I guess?</li> <li>A. I think it was 100 pounds.</li> <li>Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house?</li> </ul>	7
2 3 4 5 6 7 8	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL: Q. Okay. MR. FOXWORTH: Don't guess if you don't know.	1 2 3 4 5 6 7	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones?	7
2 3 4 5 6 7 8	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL: Q. Okay. MR. FOXWORTH: Don't guess if you don't know. MR. MANUEL:	1 2 3 4 5 6 7 8	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent	7
2 3 4 5 6 7 8 9	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL: Q. Okay. MR. FOXWORTH: Don't guess if you don't know. MR. MANUEL: Q. But was it more than 25 feet away?	1 2 3 4 5 6 7 8 9 0 11 12	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent equipment from.	7
2 3 4 5 6 7 8 9 10	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL: Q. Okay. MR. FOXWORTH: Don't guess if you don't know. MR. MANUEL: Q. But was it more than 25 feet away? A. Yes, sir. Q. The pot that you drew for us on Exhibit 4, is that the only type of pot that	1 2 3 4 5 6 7 8 9	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent equipment from. Q. Why do you think that they came from	7
2345678901234	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL: Q. Okay. MR. FOXWORTH: Don't guess if you don't know. MR. MANUEL: Q. But was it more than 25 feet away? A. Yes, sir. Q. The pot that you drew for us on Exhibit 4, is that the only type of pot that y'all used out at Mr. Myrick's house?	1 2 3 4 5 6 7 8 9 10 11 12 13 4	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent equipment from. Q. Why do you think that they came from Walker Jones?	7
23456789012345	Don't A. That's guessing at it.  MR. FOXWORTH:     Yeah.  MR. MANUEL:     Q. Okay.  MR. FOXWORTH:     Don't guess if you don't know.  MR. MANUEL:     Q. But was it more than 25 feet away?     A. Yes, sir.     Q. The pot that you drew for us on Exhibit 4, is that the only type of pot that y'all used out at Mr. Myrick's house?     A. That I know of, yes, sir.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent equipment from. Q. Why do you think that they came from Walker Jones? A. Usually, if he sells the the pot,	7
234567890123456	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL: Q. Okay. MR. FOXWORTH: Don't guess if you don't know. MR. MANUEL: Q. But was it more than 25 feet away? A. Yes, sir. Q. The pot that you drew for us on Exhibit 4, is that the only type of pot that y'all used out at Mr. Myrick's house? A. That I know of, yes, sir. Q. And the compressor that you described	1 2 3 4 5 6 7 8 9 0 11 12 3 4 5 6	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent equipment from. Q. Why do you think that they came from Walker Jones? A. Usually, if he sells the the pot, he's he's going to have the sand to go with	7
2345678901234567	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL: Q. Okay. MR. FOXWORTH: Don't guess if you don't know. MR. MANUEL: Q. But was it more than 25 feet away? A. Yes, sir. Q. The pot that you drew for us on Exhibit 4, is that the only type of pot that y'all used out at Mr. Myrick's house? A. That I know of, yes, sir. Q. And the compressor that you described with us with the two wheels, was that the only	1 2 3 4 5 6 7 8 9 0 1 1 2 3 4 5 6 7 1 1 2 3 1 4 5 6 7 1 1 2 3 1 4 5 6 7 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent equipment from. Q. Why do you think that they came from Walker Jones? A. Usually, if he sells the the pot, he's he's going to have the sand to go with it, you know. I don't know.	7
23456789012345678	Don't A. That's guessing at it.  MR. FOXWORTH: Yeah.  MR. MANUEL: Q. Okay.  MR. FOXWORTH: Don't guess if you don't know.  MR. MANUEL: Q. But was it more than 25 feet away? A. Yes, sir. Q. The pot that you drew for us on Exhibit 4, is that the only type of pot that y'all used out at Mr. Myrick's house? A. That I know of, yes, sir. Q. And the compressor that you described with us with the two wheels, was that the only air compressor that y'all used out at	1 2 3 4 5 6 7 8 9 0 1 1 2 3 4 5 6 7 8 9 1 1 2	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent equipment from. Q. Why do you think that they came from Walker Jones? A. Usually, if he sells the the pot, he's he's going to have the sand to go with it, you know. I don't know. Q. And why do you why do you think	7
234567890123456789	Don't A. That's guessing at it.  MR. FOXWORTH: Yeah.  MR. MANUEL: Q. Okay.  MR. FOXWORTH: Don't guess if you don't know.  MR. MANUEL: Q. But was it more than 25 feet away? A. Yes, sir. Q. The pot that you drew for us on Exhibit 4, is that the only type of pot that y'all used out at Mr. Myrick's house? A. That I know of, yes, sir. Q. And the compressor that you described with us with the two wheels, was that the only air compressor that y'all used out at Mr. Myrick's house?	1 2 3 4 5 6 7 8 9 0 1 1 2 3 4 5 6 7 8 9 1 1 2 3 4 5 6 7 8 9	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent equipment from. Q. Why do you think that they came from Walker Jones? A. Usually, if he sells the the pot, he's he's going to have the sand to go with it, you know. I don't know. Q. And why do you why do you think that the pot came from Walker Jones?	7
2345678901234567890	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL: Q. Okay. MR. FOXWORTH: Don't guess if you don't know. MR. MANUEL: Q. But was it more than 25 feet away? A. Yes, sir. Q. The pot that you drew for us on Exhibit 4, is that the only type of pot that y'all used out at Mr. Myrick's house? A. That I know of, yes, sir. Q. And the compressor that you described with us with the two wheels, was that the only air compressor that y'all used out at Mr. Myrick's house? A. Yes, sir.	1 2 3 4 5 6 7 8 9 0 1 1 2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent equipment from. Q. Why do you think that they came from Walker Jones? A. Usually, if he sells the the pot, he's he's going to have the sand to go with it, you know. I don't know. Q. And why do you why do you think that the pot came from Walker Jones? A. That's where we always get tools	7
23456789012345678901	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL: Q. Okay. MR. FOXWORTH: Don't guess if you don't know. MR. MANUEL: Q. But was it more than 25 feet away? A. Yes, sir. Q. The pot that you drew for us on Exhibit 4, is that the only type of pot that y'all used out at Mr. Myrick's house? A. That I know of, yes, sir. Q. And the compressor that you described with us with the two wheels, was that the only air compressor that y'all used out at Mr. Myrick's house? A. Yes, sir. Q. The when you were tending pot,	123456789012345678901	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent equipment from. Q. Why do you think that they came from Walker Jones? A. Usually, if he sells the the pot, he's he's going to have the sand to go with it, you know. I don't know. Q. And why do you why do you think that the pot came from Walker Jones? A. That's where we always get tools from, Walker Jones.	7
234567890123456789012	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL: Q. Okay. MR. FOXWORTH: Don't guess if you don't know. MR. MANUEL: Q. But was it more than 25 feet away? A. Yes, sir. Q. The pot that you drew for us on Exhibit 4, is that the only type of pot that y'all used out at Mr. Myrick's house? A. That I know of, yes, sir. Q. And the compressor that you described with us with the two wheels, was that the only air compressor that y'all used out at Mr. Myrick's house? A. Yes, sir. Q. The when you were tending pot, what when you loaded the sand, what were you	1 2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent equipment from. Q. Why do you think that they came from Walker Jones? A. Usually, if he sells the the pot, he's he's going to have the sand to go with it, you know. I don't know. Q. And why do you why do you think that the pot came from Walker Jones? A. That's where we always get tools from, Walker Jones. Q. When you were working for Mr. Myrick?	7
2345678901234567890123	Don't A. That's guessing at it.  MR. FOXWORTH:     Yeah.  MR. MANUEL:     Q. Okay.  MR. FOXWORTH:     Don't guess if you don't know.  MR. MANUEL:     Q. But was it more than 25 feet away?     A. Yes, sir.     Q. The pot that you drew for us on  Exhibit 4, is that the only type of pot that y'all used out at Mr. Myrick's house?     A. That I know of, yes, sir.     Q. And the compressor that you described with us with the two wheels, was that the only air compressor that y'all used out at Mr. Myrick's house?     A. Yes, sir.     Q. The when you were tending pot, what when you loaded the sand, what were you loading it out of it? I mean, what how would	12345678901234567890123	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent equipment from. Q. Why do you think that they came from Walker Jones? A. Usually, if he sells the the pot, he's he's going to have the sand to go with it, you know. I don't know. Q. And why do you why do you think that the pot came from Walker Jones? A. That's where we always get tools from, Walker Jones. Q. When you were working for Mr. Myrick? A. Gordon Myrick, yes, sir.	7
234567890123456789012	Don't A. That's guessing at it. MR. FOXWORTH: Yeah. MR. MANUEL: Q. Okay. MR. FOXWORTH: Don't guess if you don't know. MR. MANUEL: Q. But was it more than 25 feet away? A. Yes, sir. Q. The pot that you drew for us on Exhibit 4, is that the only type of pot that y'all used out at Mr. Myrick's house? A. That I know of, yes, sir. Q. And the compressor that you described with us with the two wheels, was that the only air compressor that y'all used out at Mr. Myrick's house? A. Yes, sir. Q. The when you were tending pot, what when you loaded the sand, what were you	1 2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	A. Not as I know of. Q. How big were the bags that you used out there? How many pounds, I guess? A. I think it was 100 pounds. Q. Do you know where those 100-pound bags of sand came from that y'all used at Mr. Myrick's house? A. I don't I guess, Walker Jones. Q. Okay. Well, why why do you suppose what is Walker Jones? A. That's one of the places we rent equipment from. Q. Why do you think that they came from Walker Jones? A. Usually, if he sells the the pot, he's he's going to have the sand to go with it, you know. I don't know. Q. And why do you why do you think that the pot came from Walker Jones? A. That's where we always get tools from, Walker Jones. Q. When you were working for Mr. Myrick?	

	Page 11	3	Page 120
1	with the red writing on it?	1	first names that you remember.
2	A. No, sir.	2	A. Billy, Tom, Sam.
3	Q. Do you remember if there were any	3	Q. Any of them have any nicknames that
4	pictures on the bags?	4	you remember?
5	A. Not as I know of.	5	A. No, sir.
6	Q. Do you remember if you used any other	6	VIDEO TECHNICIAN:
7	size bags besides 100-pound bags?	7	Excuse me. I need to change out the
8	A. I don't know.	8	tape.
9	Q. Did do you know what an MSDS is,	9	Off the record, The time is 2:17.
lo	material safety data sheet? Do you remember if	10	(Off the record.)
Ţī	you've ever seen a like a a sheet	11	VIDEO TECHNICIAN:
12	describing the hazards of any materials that you	12	Back on record. The time is 2:17.
13	used while you were there at	13	THE WITNESS:
$\frac{1}{4}$	A. No, sir.	14	Sam. Sam.
5	Q. You never saw anything like that?	15	MR. MANUEL:
16	A. No, sir.	16	Q. I got Sam. I got yeah, I got Sam.
17	Q. Who was your supervisor did I	17	I wrote him down.
18	already ask you this, who your supervisor	18	A. Already wrote down.
Ţ9	supervisor was at Mr. Myrick's?	19	Q. Did where was where is
20	A. Red, Red Hardy.	20	Mr. Myrick's house, the house that y'all were
‡1 21	Q. How do you spell that last name; do	£1	working on?
	you know? Hordy?	22 22	· · · · · · · · · · · · · · · · · · ·
22 23	A. Just like Hardee's, Hardee's, that	23	A. It's right there at the county line,
	- ·	1	Jones and and Jasper County line.
₽4 ₽5	hamburger place.	24 25	Q. Is it on a do you remember what
	Q. Oh, Red Hardy. Okay. Do you know	+	road it's on?
	Page 119		Page 121
1	where Mr. Hardy is these days?	1	A. 15.
2	A. He he's deceased.	2	Q. 15?
3	Q. Do you remember any of the other	3	A. Highway 15 North.
4	people that you worked with at Myrick's?	4	Q. When you were working, when y'all
5	A. Bobby Taylor.	5	were doing the when the blasting of the wood
6	Q. Where is Mr is Mr. Taylor still	6	was taking place in Mr. Myrick's house and you
7	living?	7	were tending the pot, did you wear any
8	A. Yes, sir.	8	protective equipment?
9	Q. Where does he live?	9	A. I had the mask.
10	A. Ellisville.	10	Q. Dust mask?
11	Q. Anybody else that you remember	11	A. Dust mask.
12	working with at Mr. Myrick's?	12	Q. What were there times that you
13	A. Let me see, Wilson Lindsey.	13	tended the pot that you didn't wear the dust
14	Q. Wilson Lindsey. Where does	14	mask?
15	Mr. Lindsey live?	15	A. Well, I had it on most all of the
6	A. Ellisville.	16	time.
17	Q. Anybody else?	17	Q. Almost all the time. But were there
18	MR. FOXWORTH:	18	times that you didn't have it on?
19	What question are you on?	19	A. Besides eating.
20	MR. MANUEL:	20	Q. Oh, when you had to eat?
21 22 23	Any other co-workers.	<b>‡</b> 1	A. Yeah.
22	A. I know some of the first names, but I	22	Q. And you also said that you cleaned up
23	can't think of the last names.	23	the sand that was used. Did you wear any
P. 4	MR. MANUEL:	24	protective equipment when you were doing the
5	Q. Okay. Give me some, just some of the	25	cleanup?

	·		
	Page 12	2	Page 12
1	A. Well, I still had that mask on	1	MR. MANUEL:
2	because it was pretty dusty.	2	Q. The metal piece, the piece of
3	Q. Was there any time that you did	3	aluminum that you were talking about
4	cleanup at Mr. Myrick's house that you didn't	4	A. Oh, the metal piece was on the
5	wear a mask?	5	outside.
6	A. Well, then on cleanup was on	6	Q. Okay. Was there anything else other
7	you know, doing the sand.	7	than the nose piece and the ridges on the
8	Q. Okay. So sometimes and I may I	8	outside of the mask?
9	may have misunderstood you. You're saying that	9	A. No, nothing - nothing but the the
10	there when you're doing the cleanup with the	10	ridges and the the piece of aluminum and
11	sand, sometimes you didn't have the mask on?	$\vec{1}_1$	the the two staples that hold the
2	A. No, huh-uh. I said I had the mask	12	Q. Okay. So it was stapled, the strap
13	on.	13	was stapled on?
4	Q. All the time?	14	A. Right.
5	A. Uh-huh.	$\frac{1}{5}$	Q. Was there any writing on the outside
6	MR. FOXWORTH:	16	of the mask?
Ī7	Was that a yes?	17	
8	THE WITNESS:	18	A. No, sir.
19	Yes, sir.	19	Q. If you looked on the inside of the
20	MR. MANUEL:	f	mask, was there anything different about the
21	Q. What tell me about the mask that	20	inside of the mask when you looked in it?
12	· · · · · · · · · · · · · · · · · · ·	21	A. It's made the same way as the
\$ <del>2</del>	you wore at Mr. Myrick's house. What color was it?	22	outside, yes, sir.
22 23 24		23	Q. Okay. Did you ever see the packaging
1 <sup>3</sup> 25	A. It was white with the ridges.	24 25	that those masks that you used at Mr. Myrick's
1—	Q. Which way	43	came in?
	Page 123		Page 125
1	A. White string (witness	1	Page 125 A. No, sir.
2	A. White string (witness indicating) or stretch band or whatever,		
2	A. White string (witness indicating) or stretch band or whatever, however you want to call it.	1	A. No, sir.
2 3 4	A. White string (witness indicating) or stretch band or whatever,	1 2	<ul><li>A. No, sir.</li><li>Q. Where did you get them? Were they</li></ul>
2 3 4 5	A. White string (witness indicating) or stretch band or whatever, however you want to call it.	1 2 3	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or
2 3 4 5 6	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?	1 2 3 4	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other
2 3 4 5	<ul> <li>A. White string (witness indicating) or stretch band or whatever, however you want to call it.</li> <li>Q. Was it only one band?</li> <li>A. Yes, sir. With the aluminum part on</li> </ul>	1 2 3 4 5	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we
2 3 4 5 6 7 8	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?	123456	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a
2 3 4 5 6 7 8 9	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did	1 2 3 4 5 6 7	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just
2 3 4 5 6 7 8	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the	1 2 3 4 5 6 7 8	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a
2 3 4 5 6 7 8 9	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).	1 2 3 4 5 6 7 8 9	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure.
2 3 4 5 6 7 8 9 0 1	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the	1234567890	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you
2 3 4 5 6 7 8 9 0	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the outside of the mask other than the ridges?	12345678901	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you worked for Mr. Myrick, did you ever help make
2 3 4 5 6 7 8 9 0 1	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the outside of the mask other than the ridges?  MR. FOXWORTH:	123456789012	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you
2 3 4 5 6 7 8 9 0 1 2 3	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the outside of the mask other than the ridges?  MR. FOXWORTH:  You talked about the nose piece.	12345678901234	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you worked for Mr. Myrick, did you ever help make the decision as to what type of mask to buy or use?
2 3 4 5 6 7 8 9 0 1 2 3 4	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the outside of the mask other than the ridges?  MR. FOXWORTH:  You talked about the nose piece.  A. No, sir.  MR. MANUEL:	123456789012345	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you worked for Mr. Myrick, did you ever help make the decision as to what type of mask to buy or use? A. No, sir.
23456789012345	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the outside of the mask other than the ridges?  MR. FOXWORTH:  You talked about the nose piece.  A. No, sir.	12345678901234	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you worked for Mr. Myrick, did you ever help make the decision as to what type of mask to buy or use? A. No, sir. Q. You just used what he gave you?
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the outside of the mask other than the ridges?  MR. FOXWORTH:  You talked about the nose piece.  A. No, sir.  MR. MANUEL:  Q. The nose piece was on the outside of	12345678901234567	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you worked for Mr. Myrick, did you ever help make the decision as to what type of mask to buy or use? A. No, sir. Q. You just used what he gave you? A. Yes, sir.
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the outside of the mask other than the ridges?  MR. FOXWORTH:  You talked about the nose piece.  A. No, sir.  MR. MANUEL:  Q. The nose piece was on the outside of the mask?  A. Huh?	123456789012345678	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you worked for Mr. Myrick, did you ever help make the decision as to what type of mask to buy or use? A. No, sir. Q. You just used what he gave you? A. Yes, sir. Q. Did and did I understand it was a
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the outside of the mask other than the ridges?  MR. FOXWORTH:  You talked about the nose piece.  A. No, sir.  MR. MANUEL:  Q. The nose piece was on the outside of the mask?  A. Huh?  Q. Was the nose piece on the outside of	1234567890123456789	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you worked for Mr. Myrick, did you ever help make the decision as to what type of mask to buy or use? A. No, sir. Q. You just used what he gave you? A. Yes, sir. Q. Did and did I understand it was a single white band on the mask that you used at
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the outside of the mask other than the ridges?  MR. FOXWORTH:  You talked about the nose piece.  A. No, sir.  MR. MANUEL:  Q. The nose piece was on the outside of the mask?  A. Huh?  Q. Was the nose piece on the outside of the mask?	12345678901234567890	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you worked for Mr. Myrick, did you ever help make the decision as to what type of mask to buy or use? A. No, sir. Q. You just used what he gave you? A. Yes, sir. Q. Did and did I understand it was a single white band on the mask that you used at Mr. Myrick's?
2345678901234567890	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the outside of the mask other than the ridges?  MR. FOXWORTH:  You talked about the nose piece.  A. No, sir.  MR. MANUEL:  Q. The nose piece was on the outside of the mask?  A. Huh?  Q. Was the nose piece on the outside of the mask?  A. No, sir.	123456789012345678901	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you worked for Mr. Myrick, did you ever help make the decision as to what type of mask to buy or use? A. No, sir. Q. You just used what he gave you? A. Yes, sir. Q. Did and did I understand it was a single white band on the mask that you used at Mr. Myrick's? A. Yes, sir.
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the outside of the mask other than the ridges?  MR. FOXWORTH:  You talked about the nose piece.  A. No, sir.  MR. MANUEL:  Q. The nose piece was on the outside of the mask?  A. Huh?  Q. Was the nose piece on the outside of the mask?  A. No, sir.  Q. The nose piece was on the inside of	1234567890123456789012	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you worked for Mr. Myrick, did you ever help make the decision as to what type of mask to buy or use? A. No, sir. Q. You just used what he gave you? A. Yes, sir. Q. Did and did I understand it was a single white band on the mask that you used at Mr. Myrick's? A. Yes, sir. Q. Did did you ever get any kind of
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1 2 2	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the outside of the mask other than the ridges?  MR. FOXWORTH:  You talked about the nose piece.  A. No, sir.  MR. MANUEL:  Q. The nose piece was on the outside of the mask?  A. Huh?  Q. Was the nose piece on the outside of the mask?  A. No, sir.  Q. The nose piece was on the inside of the mask?	12345678901234567890123	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you worked for Mr. Myrick, did you ever help make the decision as to what type of mask to buy or use? A. No, sir. Q. You just used what he gave you? A. Yes, sir. Q. Did and did I understand it was a single white band on the mask that you used at Mr. Myrick's? A. Yes, sir. Q. Did did you ever get any kind of written instructions on how to use the masks
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1 2 3	A. White string (witness indicating) or stretch band or whatever, however you want to call it.  Q. Was it only one band?  A. Yes, sir. With the aluminum part on the nose.  Q. The ridges that you talked about, did they go crossways or up and down?  A. Crossways (witness indicating).  Q. Was there anything else on the outside of the mask other than the ridges?  MR. FOXWORTH:  You talked about the nose piece.  A. No, sir.  MR. MANUEL:  Q. The nose piece was on the outside of the mask?  A. Huh?  Q. Was the nose piece on the outside of the mask?  A. No, sir.  Q. The nose piece was on the inside of the mask?  MR. FOXWORTH:	1234567890123456789012	A. No, sir. Q. Where did you get them? Were they just in the truck, or did Mr. Myrick come give them to you or A. I believe we got them off the other job. That's you know, like I said, we before, we, you know, usually get them in a in a quite a few. And we I think we just got some and took with us. I'm I'm not for sure. Q. Okay. Did did you when you worked for Mr. Myrick, did you ever help make the decision as to what type of mask to buy or use? A. No, sir. Q. You just used what he gave you? A. Yes, sir. Q. Did and did I understand it was a single white band on the mask that you used at Mr. Myrick's? A. Yes, sir. Q. Did did you ever get any kind of

	Page 12	6	Page 128
1,	Q. Did anybody give you any instructions	1	at Mr. Myrick's house other than the wood?
1 2	as to how to fit the mask to your face at	2	A. No, sir.
3	Mr. Myrick's?	3	Q. What did you do any kind of
4	A. No, sir.	4	concrete work while you worked for G for
5	Q. Did anybody do any fit testing of the	5	H. Gordon Myrick?
6	masks there	6	A. Yes, sir.
7	A. No, sir.	7	Q. Did you do any tearing up of
8	Q at Mr. Myrick's? The days that	8	concrete?
9	y'all were working in Mr. Myrick's house, how	9	A. Yes, sir.
ĺ	long was the blasting going on?	10	Q. Where what jobs did you do tearing
	A. Worked until the the guy that was	Ιī	up of concrete?
2	doing the blasting say he was tired.	12	A. We did it in Ellisville, Mississippi.
13	Q. All right. Was it a couple of hours	13	Q. And what were you doing during the
4	each day?	$\frac{1}{4}$	tearing up of concrete jobs?
5	A. I'm not for sure how many how long	Ţ5	A. Running the chipping gun.
6	was it.	16	Q. Running the chipping gun?
7	Q. I mean, do you remember any days in	17	A. Yes, sir.
8	which you were working on Mr. Myrick's house in	18	Q. Now, is that different than the
9	which you went all day that blasting was going	19	jackhammer?
20	on?	20	A. Chipping gun, chipping hammer, same
21	A. What you mean, all day, you know,	21	thing. No, it ain't.
22	work straight eight hours, or stop, just	22	Q. When what sort of protective
2₃	Q. Yes, sir. I'm talking about was	23	equipment did you wear when you operated the
24	there any one day when it was just eight hours	24	jackhammer while working for Mr. Myrick?
25	long of just blasting?	25	A. Safety glasses and masks.
	Page 12	7	Page 129
1	A. We did a full day of it, but, you	1	Q. Was it the same type of masks that
2	know, it was always there was some stopping	2	you described that you wore while you were in
3	in between it.	3	his house?
4	Q. Okay. That and that's what I	4	A. Yes, sir.
5	was I was asking.	5	Q. Did you use during the entire time
6	A. Okay.	6	that you worked for H. Gordon Myrick, did you
7	Q. Y'all y'all would stop at times	7	use any other type of mask than the type of mask
8	and do other work and then go back to blasting?	8	you described that you used while working
9	A. You'd stop, take a break, and then go	9	A. No.
10	back.	10	Q on Mr. Myrick's house?
11	Q. And the only thing that you did with	11	A. No, sir. Always the same, same type
12	regard to the blasting was tend the pot at	12	mask.
13	Mr. Myrick's?	13	Q. Okay. And is it true that throughout
14	IVII. IVIYIICK 3:		
£ -3	A. Yes, sir.	14	the entire time you worked for Mr. Myrick, you
5	•	14 15	the entire time you worked for Mr. Myrick, you never saw the packaging that the masks came out
15 16	A. Yes, sir.  MR. FOXWORTH:  Do you want some more water, John?	•	never saw the packaging that the masks came out of; is that true?
5	A. Yes, sir. MR. FOXWORTH:	15	never saw the packaging that the masks came out of; is that true?  A. No, I never did see it.
15 16 17 8	A. Yes, sir.  MR. FOXWORTH:  Do you want some more water, John?  THE WITNESS:  Yes, sir.	5 16 7 8	never saw the packaging that the masks came out of; is that true?  A. No, I never did see it.  Q. You never saw the packaging?
15 16 17 18 19	A. Yes, sir.  MR. FOXWORTH:  Do you want some more water, John?  THE WITNESS:  Yes, sir.  MR. MANUEL:	15 16 17	never saw the packaging that the masks came out of; is that true?  A. No, I never did see it. Q. You never saw the packaging? A. No, sir.
5 16 17 18 19 0	A. Yes, sir.  MR. FOXWORTH:  Do you want some more water, John?  THE WITNESS:  Yes, sir.  MR. MANUEL:  Q. And the the mask that you just	567890	never saw the packaging that the masks came out of; is that true?  A. No, I never did see it. Q. You never saw the packaging? A. No, sir. Q. And during the entire time you worked
5678901 21	A. Yes, sir.  MR. FOXWORTH:  Do you want some more water, John?  THE WITNESS:  Yes, sir.  MR. MANUEL:  Q. And the the mask that you just described for us, is that the only type of mask	15 16 7 18 9 20 1	never saw the packaging that the masks came out of; is that true?  A. No, I never did see it. Q. You never saw the packaging? A. No, sir. Q. And during the entire time you worked for Mr. Myrick, did you ever see any written
56789012 2222	A. Yes, sir.  MR. FOXWORTH:  Do you want some more water, John?  THE WITNESS:  Yes, sir.  MR. MANUEL:  Q. And the the mask that you just described for us, is that the only type of mask that you remember using while y'all were working	15 16 7 18 9 19 20 12 21 22 22 22	never saw the packaging that the masks came out of; is that true?  A. No, I never did see it. Q. You never saw the packaging? A. No, sir. Q. And during the entire time you worked for Mr. Myrick, did you ever see any written instructions about how to use the masks that you
567890123	A. Yes, sir.  MR. FOXWORTH:  Do you want some more water, John?  THE WITNESS:  Yes, sir.  MR. MANUEL:  Q. And the the mask that you just described for us, is that the only type of mask that you remember using while y'all were working on Mr. Myrick's house?	15 16 7 8 9 0 1 2 3 2 2 2 3	never saw the packaging that the masks came out of; is that true?  A. No, I never did see it. Q. You never saw the packaging? A. No, sir. Q. And during the entire time you worked for Mr. Myrick, did you ever see any written instructions about how to use the masks that you had?
56789012 2222	A. Yes, sir.  MR. FOXWORTH:  Do you want some more water, John?  THE WITNESS:  Yes, sir.  MR. MANUEL:  Q. And the the mask that you just described for us, is that the only type of mask that you remember using while y'all were working	15 16 7 18 9 19 20 12 21 22 22 22	never saw the packaging that the masks came out of; is that true?  A. No, I never did see it. Q. You never saw the packaging? A. No, sir. Q. And during the entire time you worked for Mr. Myrick, did you ever see any written instructions about how to use the masks that you

	Page 13	0		Page 132
1	Mr. Myrick, did you do it at on any jobs		1	A. I don't know.
2	other than there at Ellisville?		2	MR. MANUEL:
3	A. I did it at the — the bank in		3	Q. Okay. Did you ever did anybody
4	Collins. I did it at the church in Calhoun. I		4	ever give you any kind of written document or
5	did it at the church in Laurel.		5	any kind of brochure or something that said -
6	Q. All right. In Ellisville, what		6	A. No, sir.
7	what building were you working on?		7	Q you know
8	A. At the college.		8	A. I'm sorry.
9	Q. College?		9	Q what you're supposed to wear and
10	A. Dormitory.	1	0	when you're supposed to wear it?
11	Q. Was there any time that you were	1	1	A. No, sir.
2	running the chipping gun in which you didn't	1	2	Q. Did at any of the places that
1.3	wear a dust mask?	1	3	you worked doing either concrete work or were
14	A. No, sir.	1	4	around sandblasting, did anybody ever show you
1.5	Q. Was there any were there any rules	1	5	any brochures about protective equipment?
16	while you were working for Mr. Myrick about when	1	6	A. No, sir.
17	you had to wear a mask and when you didn't?	1	7	Q. Have you ever seen any ads or
18	A. He told me that's what he bought them	1	8	brochures regarding dust masks?
19	for, to use, so we need to use them.	1	9	A. No, sir.
20	Q. Were there did y'all have any	≱	0	Q. All right. We're getting close.
21	safety meetings while you were working for	\$	1	THE WITNESS:
22	Mr. Myrick?	<u>‡</u>		Can I take a can I take a break?
⊉3	A. Not as I remember.	\$	3	MR. MANUEL:
⊉4	Q. Do you remember if anybody from OSHA	2	4	Yeah.
25	ever came out on any of the sites y'all were	þ	5	MR. FOXWORTH:
	Page 13	1		Page 133
1	working on for Mr. Myrick?		1	Yeah.
2	A. Not on none of the ones I had worked		2	MR. MANUEL:
3	on.	-	3	You need to take a break? I'm
4	Q. At the time you worked for Mr.		4	getting real close, so
5	Myrick, did you have a beard or a mustache?	ı	5	VIDEO TECHNICIAN:
6	A. I believe I had a mustache.	ı	6	Off the record. The time is 2:31.
7	Q. Did anybody give you any instructions	l	7	(Off the record.)
8	on how to whether a dust mask would fit over		8	VIDEO TECHNICIAN:
9	a mustache, or how you were supposed to adjust a		9	Back on record. The time is 2:46.
10	dust mask with a mustache?	1.	0	MR. MANUEL:
11	A. Huh-uh.	1	1	Q. Mr. McGilberry, we've got we
12	Q. Is that a no?		2	talked a little bit about working for Mr.
13	<ol> <li>No. I'm sorry about shaking my head.</li> </ol>	1	3	Myrick, and you said that y'all had done some
14	Q. No problem.	- 1	4	blasting in the in the house. Do you know
15	At any of the places that you worked		5	who supplied any of the sand that y'all used at
16	for Mr. Myrick, do you know if anybody did	ŀ	6	Mr. Myrick's? Or did you already answer that?
17	any were you aware of anybody doing any air	- 1	7	I think
18	testing?		8	A. I don't know who he bought it from,
19	A. No, sir.	î	9	but I believe like I say, I I think he got
20	Q. At any of the places that you worked	2	0	it from Walker Jones.
21	for Mr. Myrick, did you ever see a written	2		Q. Okay. Did y'all use any did y'all
22	respiratory protection program?	2:		mix any concrete while y'all were working for
23	MR. FOXWORTH:	þ:		Mr. Myrick? On any of the jobs that y'all did,
24	Do you know what that is? If you	7		did y'all do any concrete mixing?
25	don't know what that is, John, ask him.	2	5	A. Like patching, patching and stuff

Page 134 Page 136 like that. A. He contracted the smoothness out. 1 2 Somebody else would come in there and smooth it 2 O. Patching? 3 out for him. A. Yes, sir. 3 Q. And would that be the same process 4 Q. Did the finishing part of it? 4 A. Yeah, the finishing part. like you described out in Apex, North Carolina, 5 5 that you would mix the stuff together with a hoe Q. Okay. 6 6 A. But, if anything is wrong with it 7 in a trough? 7 that it -- it needed to be chipped out, we had A. Yes, sir. 8 8 Q. Did you use anything else to mix the 9 9 to do it. concrete other than a hoe and a trough while you worked for Mr. Myrick? Q. So y'all wouldn't have been involved 0 0 in the mixing of the concrete that was poured? 1 1 A. Not as I know of. 2 A. No. sir. 2 Q. Do you know who it was that he 3 3 Q. Do you know where any of the contracted out with to do the finishing? materials that you used for the patching came 4 4 from when you worked for Mr. Myrick? A. All I know is the man was named 5 5 A. Equipment, what you mean, sand --6 6 Jessie. Q. Yeah, that -- that -- the material 7 7 Q. Jessie? that you were using to do the patching. 8 A. Uh-huh. 8 A. We got the sand from Pine Belt, Pine Q. Now, we've talked about two 9 9 Belt Ready Mix. They buy it in bulk, you know, limited times that you were actually around 20 20 sandblasting. One was at -- doing the stairs like it's --21 ⊉1 for Mr. Pittman, and the other time was in Mr. 2 2₽ Q. Uh-huh. Myrick's house. Was that -- did y'all use any 23 ₽3 A. It's according to what they're doing on a job. You know, a lot of time, that sand -other materials to do blasting at either of 24 5 sand is already on the job. those sites other than sand? Page 135 Page 137 A. That's the only thing I remember was 1 1 O. Okay. A. And we usually get it from Pine Belt. 2 2 sand. Q. And did I understand you correctly 3 3 Q. And what -- and I apologize if I that you said that the only kind of concrete asked this before, but the work on Mr. Myrick's 4 house, do you remember what year that was? mixing that you did with Mr. Myrick was just the 5 5 mixing for the patching, correct? 6 6 A. No, sir. 7 A. Yeah. Q. All right. Have you told me 7 everywhere that you worked around sandblasting or did any sandblasting? Have we covered all of Q. So any -- the chipping gun that you 8 8 used at these various places in Collins and 9 9 Calhoun and Laurel, y'all would have been those work sites? 0 0 chipping concrete that was put down by somebody A. Yes, sir. 1 1 Q. Okay. And have you told me about all the places at which you either did concrete work 2 else? 2 3 A. Well, the same crew. 3 or any chipping or tearing out of concrete? 4 O. The same crew? 4 A. I believe so. 5 A. Yeah. You know, the -- all of the 5 guys that -- on that construction site was with 6 6 Q. All right. Were you in the military? 7 Gordon Myrick, so. 7 A. No. sir. Q. Okay. So it would have been -- you 8 8 Q. Have you ever been a member of a were chipping -- chipping concrete that was put 9 9 union? 20 down for --A. A union? 0 21 A. Well, we -- we'd -- go ahead. Go 1 Q. Yes, sir. ahead. Go ahead. ₽2 2 Yes, sir. Q. What union were you a member of? Q. Oh, I was just going to say, you were 2≉3 2₃ chipping concrete that had been poured by ₽4 ₽4 A. IBEW. 25 some -- another crew for Mr. Myrick? Brotherhood of Electrical Workers

	Page 1	38	Page 140
1	or I don't even know.	1	
2	A. IBEW.	2	
3	Q. Which what lodge what what	3	c === == jour == jourisimon non to
4	lodge or whatever it was were you a member of,	4	•
5	what local? Do you remember a number?	5	
6	A. I think, 437.	6	C
7	Q. Where was it based out of?	7	6 3- 3- 3- 40 Mills.
8	A. Out of Laurel.	- 1	Q. All right. What's your wife's name?
9	Q. Out of Laure!?	8	A. Paula.
lo	A. Laurel.	9	Q. And what is - what was her maiden
$\frac{1}{1}$		10	name?
12	Q. Did you ever hold any offices in the union?	11	A. Gordon.
13		12	Q. How old is she?
ľ	A. No, sir.	13	A. Forty-four.
14 15	Q. Did you attend union meetings?	14	Q. All right. You told me about one of
	A. Yes, sir.	15	your daughters, Courtney, who lives with you
16	Q. How often did y'all meet?	16	right now; is that correct?
17	A. I'm not for sure how how often we	17	A. Yes, sir.
18	met.	18	Q. Tell me your other daughters' names.
19	Q. Was it once a month or once a year	19	A. Anita Gordon.
20	or	20	Q. Where does Anita live? Does she live
21	A. I don't know.	21	in the state of Mississippi?
22	Q. How long were you a member of the	22	A. Yes, she lives on the same street I
23	IBEW?	23	stay on, McManus.
24	A. The two years the twice the two	24	Q. All right. Who else?
25	times I worked at Howard.	25	A. Angela McGilberry.
	Page 13	19	Page 141
1	Q. Did you do you remember, while you	1	Q. Where does Angela live?
2	were a member of the IBEW, if they had any	2	A. North Street.
3	meetings in which y'all discussed asbestos?	3	Q. In Ellisville?
4	A. Not as I know of.	4	A. Yes, sir.
5	Q. How about silica?	5	Q. All right.
6	A. No. sir.	6	A. Christina McGilberry.
7	Q. All right. How about any meetings in	7	Q. Ellisville?
8	which y'all discussed the wearing of respiratory	8	l:
9	protection or protective equipment?	9	
0	A. No, sir.	lo	- I
1	Q. Did you receive stuff in the mail at	11	
2	all from the union? Newsletters or anything	12	`
13	like that?	13	A. Ellisville.
4	A. I think we got a monthly quarter		Q. Are any of your daughters married?
5	or monthly newspaper or something like that.	14	A. One.
6	Q. Do you remember anything in the	15	Q. Which one?
7	newspaper or the substance second-second	16	A. Angela. She a Clark, Angela Clark.
8	newspaper or the whatever newsletter that	17	Q. And what's her husband's name?
9	you got talking about silica or asbestos?  A. No, sir.	18	A. Greg Clark.
	,	19	Q. Have you ever worked with Greg?
0.5	Q. Do you remember who your shop steward	20	A. Not on no jobs.
21 22	was at Howard?	21	Q. Okay. Have you ever worked with any
	A. No, sir. Oh, the steward?	22	of your daughters on any of your jobs?
23	Q. Yeah.	23	A. No, sir.
24	A. Let me see. James Dace.	⊉4 I_	Q. Have you ever worked with your wife
.5	Q. James Dace?	25	on any of your jobs?

		1	
	Page 14	2	Page 14
1	A. No, sir.	1	A. Yes, sir.
2	Q. Does your wife smoke?	2	Q. All right. How about your mother?
3	A. Yes.	3	Is your mother still living?
4	Q. How long has she smoked? Since	4	A. She's passed.
5	you've been married to her?	5	Q. What was your mother's name?
6	A. Yeah.	6	A. Christine McGilberry.
7	Q. Does she smoke in the house?	7	Q. Was she from there in Ellisville, or
8	A. No.	8	Jones County?
9	Q. What what brand does she smoke; do	9	A. No. She's originally from Jeff Davis
10	you know?	10	County.
11	A. Salem.	$1_1$	Q. And what did she pass away from?
2	MR. FOXWORTH:	12	A. I'm I'm not for sure. I wasn't
13	What was your question, Will?	13	even at home when she passed.
4	MR. MANUEL:	14	Q. How old was she when she passed away?
15	What brand does she smoke.	15	A. About I'm not for sure.
16	Q. Salem?	16	Q. Does your mother smoke?
17	A. Yeah.	Ī7	A. Yes, sir.
18	Q. Menthol or	18	Q. Do you have any brothers and sisters?
19	A. Cigarettes is all I know.	19	A. I had — it's eleven of us.
20	Q. Okay. Have you ever smoked?	20	Q. Eleven. All right.
	A. No.	21	MR. FOXWORTH:
22	Q. Does your daughter, Courtney, smoke?	‡ <del>2</del> 2	Do you want do you want to get a
23	A. No.	23	new sheet of paper, Will?
21 22 23 24	Q. Do I'm going to ask you some	7 4 2 4	MR. MANUEL:
25	questions. They're going to sound like very	25	I'm going to see if I can get it all
<u> </u>	<u> </u>		7311 going to see if I can get it an
1	Page 140	2 F	
_		1	Page 145
1	personal questions, but I assure you I'm not	1	on the bottom of here.
2	personal questions, but I assure you I'm not asking for my own enjoyment.	1 2	on the bottom of here.
2 3	personal questions, but I assure you I'm not asking for my own enjoyment. MR. FOXWORTH:	1	on the bottom of here. Q. All right. Let's is it the
2 3 4	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe	1 2	on the bottom of here.
2 3 4 5	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.	1 2 3 4 5	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?
2 3 4 5 6	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:	1 2 3 4	on the bottom of here.  Q. All right. Let's — is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.
2 3 4 5 7	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?	1 2 3 4 5	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?
2 3 4 5 6 7 8	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.	1 2 3 4 5 6	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.
2 3 4 5 6 7 8 9	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.  Q. Okay. How old I mean, what was	1 2 3 4 5 6 7	on the bottom of here.  Q. All right. Let's — is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?
2 3 4 5 6 7 8 9	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.  Q. Okay. How old I mean, what was your father's name?	1 2 3 4 5 6 7 8	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.
2 3 4 5 6 7 8 9	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.  Q. Okay. How old I mean, what was your father's name?  A. George McGilberry.	1 2 3 4 5 6 7 8 9 0 1	on the bottom of here.  Q. All right. Let's — is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him,
2 3 4 5 6 7 8 9 0 1 2	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.  Q. Okay. How old I mean, what was your father's name?  A. George McGilberry.  Q. When did he pass away?	1 2 3 4 5 6 7 8 9 0 1 1 2	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.
2 3 4 5 6 7 8 9 0 1 2	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.  Q. Okay. How old I mean, what was your father's name?  A. George McGilberry.  Q. When did he pass away?  A. I think, about it's been quite	1 2 3 4 5 6 7 8 9 0 1 1 2 3	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.  Q. Okay. But which plant would that
2 3 4 5 6 7 8 9 0 1 2 3 4	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.  Q. Okay. How old I mean, what was your father's name?  A. George McGilberry.  Q. When did he pass away?  A. I think, about it's been quite awhile. I'm not for sure how many how many	12345678901234	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.  Q. Okay. But which plant would that have been?
2 3 4 5 6 7 8 9 0 1 2 3 4 5	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.  Q. Okay. How old I mean, what was your father's name?  A. George McGilberry.  Q. When did he pass away?  A. I think, about it's been quite awhile. I'm not for sure how many how many years it's been.	123456789012345	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.  Q. Okay. But which plant would that
2 3 4 5 6 7 8 9 0 1 1 2 3 4 5 6	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.  Q. Okay. How old I mean, what was your father's name?  A. George McGilberry.  Q. When did he pass away?  A. I think, about it's been quite awhile. I'm not for sure how many how many years it's been.  Q. More than 10 years?	12345678901234	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.  Q. Okay. But which plant would that have been?  A. Howard.  Q. At Howard.
2 3 4 5 6 7 8 9 10 1 2 3 4 5 6 7 7 8 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed. Q. Okay. How old I mean, what was your father's name?  A. George McGilberry. Q. When did he pass away? A. I think, about it's been quite awhile. I'm not for sure how many how many years it's been.  Q. More than 10 years? A. Yeah, more than 10.	12345678901234567	on the bottom of here.  Q. All right. Let's — is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.  Q. Okay. But which plant would that have been?  A. Howard.
2 3 4 5 6 7 8 9 0 1 1 2 3 4 5 6 7 8 8 7 8 7 8 7 8 8 7 8 7 8 8 7 8 7 8 8 7 8 8 7 8 7 8 7 8 7 8 7 8 7 8 7 8 7 8 7 8 7 8 7 8 7 8 8 7 8 7 8 7 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 7 8 8 7 8 7 8 7 8 8 7 8 7 8 7 8 8 7 8 7 8 8 7 8 7 8 7 8 7 8 7 8 7 8 8 7 8 7 8 7 8 7 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 7 8 7 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 7 8 8 7 8 8 7 8 8 7 8 8 7 8 7 8 8 8 7 8 8 7 8 7 8 7 8 8 7 8 8 8 7 8 8 8 7 8 8 8 7 8 8 7 8 8 8 8 7 8 8 8 8 8 7 8 8 8 7 8 8 8 8 7 8 8 8 7 8 8 7 8 8 7 8	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.  Q. Okay. How old I mean, what was your father's name?  A. George McGilberry.  Q. When did he pass away?  A. I think, about it's been quite awhile. I'm not for sure how many how many years it's been.  Q. More than 10 years?  A. Yeah, more than 10.  Q. What did your father do for a living?	123456789012345678	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.  Q. Okay. But which plant would that have been?  A. Howard.  Q. At Howard.
2 3 4 5 6 7 8 9 0 1 1 2 3 4 5 6 6 7 8 9	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.  Q. Okay. How old I mean, what was your father's name?  A. George McGilberry.  Q. When did he pass away?  A. I think, about it's been quite awhile. I'm not for sure how many how many years it's been.  Q. More than 10 years?  A. Yeah, more than 10.  Q. What did your father do for a living?  A. He was a truck driver.	1234567890123456789	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.  Q. Okay. But which plant would that have been?  A. Howard.  Q. At Howard.  Has your brother got any health
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed. Q. Okay. How old I mean, what was your father's name?  A. George McGilberry. Q. When did he pass away? A. I think, about it's been quite awhile. I'm not for sure how many how many years it's been.  Q. More than 10 years?  A. Yeah, more than 10.  Q. What did your father do for a living?  A. He was a truck driver.  Q. What did he pass away from?	123456789012345678	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.  Q. Okay. But which plant would that have been?  A. Howard.  Q. At Howard.  Has your brother got any health problems that you know of?
2 3 4 5 6 7 8 9 0 1 1 2 3 4 5 6 7 8 9 0 1	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed. Q. Okay. How old I mean, what was your father's name?  A. George McGilberry. Q. When did he pass away? A. I think, about it's been quite awhile. I'm not for sure how many how many years it's been.  Q. More than 10 years?  A. Yeah, more than 10.  Q. What did your father do for a living?  A. He was a truck driver.  Q. What did he pass away from?  A. Heart attack.	123456789012345678901	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.  Q. Okay. But which plant would that have been?  A. Howard.  Q. At Howard.  Has your brother got any health problems that you know of?  A. Not as I know of.
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1 2	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed. Q. Okay. How old I mean, what was your father's name?  A. George McGilberry. Q. When did he pass away?  A. I think, about it's been quite awhile. I'm not for sure how many how many years it's been.  Q. More than 10 years?  A. Yeah, more than 10.  Q. What did your father do for a living?  A. He was a truck driver.  Q. What did he pass away from?  A. Heart attack.  Q. Did your father smoke?	1234567890123456789012	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.  Q. Okay. But which plant would that have been?  A. Howard.  Q. At Howard.  Has your brother got any health problems that you know of?  A. Not as I know of.  Q. All right. Who's the next one down?
2 3 4 5 6 7 8 9 0 1 1 2 3 4 5 6 7 8 9 0 1 2 3 1 2 3 3 4 3 1 2 3 3 1 2 3 3 3 3 4 3 3 3 3 3 3 3 3 3 3 3 3 3 3	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.  Q. Okay. How old I mean, what was your father's name?  A. George McGilberry.  Q. When did he pass away?  A. I think, about it's been quite awhile. I'm not for sure how many how many years it's been.  Q. More than 10 years?  A. Yeah, more than 10.  Q. What did your father do for a living?  A. He was a truck driver.  Q. What did he pass away from?  A. Heart attack.  Q. Did your father smoke?  A. Yes, sir.	123456789012345678901	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.  Q. Okay. But which plant would that have been?  A. Howard.  Q. At Howard.  Has your brother got any health problems that you know of?  A. Not as I know of.  Q. All right. Who's the next one down?  A. Larry.  Q. Where does Larry live?  A. Ellisville.
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1 2 3 4	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.  Q. Okay. How old I mean, what was your father's name?  A. George McGilberry.  Q. When did he pass away?  A. I think, about it's been quite awhile. I'm not for sure how many how many years it's been.  Q. More than 10 years?  A. Yeah, more than 10.  Q. What did your father do for a living?  A. He was a truck driver.  Q. What did he pass away from?  A. Heart attack.  Q. Did your father smoke?  A. Yes, sir.  Q. Was he smoking while y'all were	123456789012345678901234	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.  Q. Okay. But which plant would that have been?  A. Howard.  Q. At Howard.  Has your brother got any health problems that you know of?  A. Not as I know of.  Q. All right. Who's the next one down?  A. Larry.  Q. Where does Larry live?  A. Ellisville.
2345678901234567890123	personal questions, but I assure you I'm not asking for my own enjoyment.  MR. FOXWORTH:  Oh, don't believe him. Don't believe him.  MR. MANUEL:  Q. Is your father still living?  A. He he he passed.  Q. Okay. How old I mean, what was your father's name?  A. George McGilberry.  Q. When did he pass away?  A. I think, about it's been quite awhile. I'm not for sure how many how many years it's been.  Q. More than 10 years?  A. Yeah, more than 10.  Q. What did your father do for a living?  A. He was a truck driver.  Q. What did he pass away from?  A. Heart attack.  Q. Did your father smoke?  A. Yes, sir.	12345678901234567890123	on the bottom of here.  Q. All right. Let's is it the easiest to go from oldest down to the youngest?  A. Yeah, oldest down.  Q. Okay. Who is the oldest?  A. Lamar.  Q. And where does Lamar live?  A. He lives in Ellisville.  Q. Have you ever worked with Lamar at any of your jobs?  A. I worked in the same plant with him, but not with him.  Q. Okay. But which plant would that have been?  A. Howard.  Q. At Howard.  Has your brother got any health problems that you know of?  A. Not as I know of.  Q. All right. Who's the next one down?  A. Larry.  Q. Where does Larry live?  A. Ellisville.

		Page 1	16	Page 148
1	Ο.	Does Larry have any health problems?	1	bad knees.
2	-	No, sir.	2	Q. Do y'all have to take any medication
3	Q.		3	•
4		Alene Wigham.	4	A. Huh-uh.
5		Where does she live?	5	Q. Okay. Who is after Fannie?
6	A.		6	
7		Y'all don't have to travel far for	17	
8	_	reunions.	8	
9		No, you don't.	Ç	- · · · · · · · · · · · · · · · · · · ·
lo	Q.		10	!
11		No, sir.	11	
12		And what's her husband's name?	$\frac{1}{2}$	
13			13	
1	Α.	<u> </u>	14	
14	Q.		15	· · · · · · · · · · · · · · · · · · ·
15	Α.	Oh, no.		•
16	Q.	Okay. Did you ever work with her	16	•
17		nd on any of the jobs?	17	· · · · · · · · · · · · · · · · · · ·
18		No, sir.	18	, · ·
19		Okay. Who's next down?	19	` •
20	A.		20	· · · · · · · · · · · · · · · · · · ·
21	Q.	All right. And then, who's after	21	· · · · · · · · · · · · · · · · · · ·
22	you?		22	
23	A.		23	•
24	Q.	Is Fannie married?	⊉4	, · •
25	A.	She's a Millsap.	25	years older than I am.
		Page 1	17	Page 149
1	O.	Okay. Millsap.	1	Q. Okay. And how about Larry?
2		But she she's not married now, but	2	· · · · · · · · · · · · · · · · · · ·
3		what her that's her married name.	3	
4		Where does she live?	4	
5	~	Laurel.	5	
6		Have you ever worked with Fannie?	6	
7	~	No, sir.	17	
8	Q.	Did you ever work with her	8	· · · · · · · · · · · · · · · · · · ·
9	ex-husl	•	9	•
0	A.	No.	10	
1 _		Has she got any health problems?	11	
11	Q.	Nothing but bad knees.	12	
12	Α.	_		
13	Q.	Bad knees?	13	· ·
14		Uh-huh.	14	~
15	Q.	How about I forgot to ask about	15	
16		Has she got any health problems?	16	
17	Α.	Bad knees.	17	.,
.8	Q.	Bad knees?	18	
19	Α.	We all got bad knees.	19	<b>.</b>
20	Q.	Oh, really? Is it just	20	``
21		Family.	21	A. Oh, he he died.
22 23	Q.	arthritis in the knees or	2/2	Q. Oh, he died?
23	A.	No, it's family related.	2/3	A. Uh-huh.
24	Q.	Family related?	2∤4	Q. Did you ever work with Bobby Charles?
25	A.	My daddy had bad knees. My mamma had	25	A. No, sir.

	Page 15	50		Page 15:
1	Q. How about who is the next one down	1	A.	Rita?
2	from Jeanie?	2	Q.	You got Rita.
3	A. James.	3		I got Rita?
4	Q. Is James the one that lives here in	4	Q.	<del>-</del>
5	Laurel?	5	A.	Deborah.
6	A. Yeah.	6	Q.	Deborah. Now, where does Deborah
7	Q. And have you worked with James? Have	7	live?	
8	you worked with him?	8	A.	She lives in Laurel.
9	A. Yeah, at Howard.	9		All right. Is Deborah still a
$\frac{10}{1}$	Q. At Howard?	10	McGil	berry, or is she married?
11	A. Uh-huh.	<b>ļ</b> 1	A.	
12	Q. Is James	12	Q.	Has she got any health problems?
13	A. And at Southern Touch.	13		Not as I know of.
14	Q. And at Southern Touch?	14	Q.	All right. Who's after Deborah?
15 16	A. Yeah.	15		I've got two more?
17	Q. How many years younger is James than	16	Q.	
18	you?	17	Α.	Barbara.
19	A. He should be about he ought to be about 45 or 46.	18	Q.	Barbara. And where does Barbara
20		19	live?	
‡1	Q. Okay. Has he got any health problems?	20	Α.	Laurel.
22	A. He's got bad knees.	21		And what's Barbara's last name?
23	Q. Any other besides knees?	22		McGilberry.
24	A. No, sir.	23	Q.	Have you ever worked with Barbara?
15 25	Q. All right. Who's let's see, we've	24 25	Α.	No, sir.
F-		<del>- </del>	Q.	Does she have any health problems?
,	Page 151			Page 153
1 2	got one, two, three, four, five, six, seven, so	1		No, sir.
3	we've got four more to go.	2	Q.	All right.
	A. Four more to go?	3		Henry.
4 5	Q. I think. Lamar, Larry, Alene, you,	4	Q.	Henry. That's the baby?
6	Fannie, Jeanie, and James. So I've got seven.  A. Rita.	5	A.	Yeah.
7		6	Q.	And where does Henry live?
8	Q. All right. How old would Rita how much younger is Rita? Just	7	A.	Ellisville.
9	A. Just keep going down	8	Q.	All right. Have you ever worked with
10	Q. Younger than James?	9	Henry?	
$1_1$	A. Yeah, yeah.	10		No, sir.
2	Q. Okay. What's Rita's last name?	11	Q.	All right. Has he got any health
<u> </u>	A. What's her last name? I'm losing	12 13		ns that you know of?
4	my I'm not for sure right now.	1		No, sir.
5	Q. Okay. What does she where does	14 15		Do any of your brothers or sisters
6	she live?	16		that you know of?
7	A. She lives in Lucedale, Mississippi.	†°		Rita, Jeanie.
8	Q. All right. Have you ever worked with	† ′ 18	Q. filed a r	Have any of your brothers or sisters
9	Rita?	<u> 1</u> 9	THEG A S	ilica lawsuit that you know of?
20	A. No, sir.	† <sup>3</sup> 20		No, not as I know of.
21	Q. Does Rita have any health problems?	‡0 21	Q. sandblas	Okay. Did any of them do any
22	A. No, sir.	22 22		Not as I know of.
23	Q. Who's next after Rita?	23		Have you ever filed any other
24	A. Did I give you Rita?	24	lawenite	besides the one that we're here about
25	Q. Huh?	Τ.,	************	oversees the one that we le here anoth

	7.5		
	Page 15		Page 15
1	A. Yeah, that asbestos.	1	
2	Q. Okay. Who represented you on the	2	· · · · · · · · · · · · · · · · · · ·
3	asbestos lawsuit? Is it the same lawyer?	3	Q. Have you had to go see a doctor for
4	A. No, sir. I think it's Swartzfager.	4	anything about asbestos?
5	Q. Okay. Jon Swartzfager?	5	MR. FOXWORTH:
6	A. Out of out of	6	Will
7	Q. Laurel?	7	MR. MANUEL:
8	A Vicksburg.	8	Okay. Okay. Let's take yeah, you
9	Q. Out of Vicksburg?	9	want to take just a very short break?
10	A. That's that's the last I heard,	10	MR. FOXWORTH:
11	Vicksburg	11	Yes.
12	Q. Do you know if that case is still	12	MR. MANUEL:
13	going on, or is it settled?	13	Very short, John.
14	A. I don't know.	14	VIDEO TECHNICIAN:
15	Q. All right. Do you have you	15	Off the record. The time is 3:12.
16	received any settlement amounts from that	16	(Off the record.)
17	A. No, sir.	17	VIDEO TECHNICIAN:
18	Q lawsuit? Okay.	18	Back on record. The time is 3:22.
19	Do you know, did you have an asbestos	19	MR. MANUEL:
20 21 22	screening done? Did you have an x-ray done?	20	Q. Mr. McGilberry, you mentioned an
<u> </u>	A. Yes, sir.	21	asbestos lawsuit. Have you filed any other
12	Q. Okay. How long ago did you have that	2/2	lawsuits besides the asbestos lawsuit and this
23	done?	2∤3	lawsuit?
24	A. I'm not for sure how long it's been.	24	A. No, sir.
25	Q. More than two years ago?	25	Q. No. Have you ever filed a claim for
	Page 15.	5	Page 157
1	A. Yeah, more than two.	1	workers' compensation benefits?
2	Q. Did where did you have that x-ray	2	MR. FOXWORTH:
3	done for the asbestos?	3	Have you ever been injured at work
4	A. I think	4	where you had to file a workers' comp claim?
5	MR. FOXWORTH:	5	A. When I got sick.
6	What was your last question?	6	MR. MANUEL:
7	THE WITNESS:	7	Q. You got sick. Okay. Where did
8	Laurel.	8	you what job were you on that you got sick?
9	MR. MANUEL:	9	A. I was driving trucks then.
10	Where did he have it have the	10	Q. Okay. Is that for SRT?
11	asbestos screening done.	11	A. Yeah.
2	THE WITNESS:	12	Q. And what what was the sickness
13	In Laurel.	13	that you had to claim working for SRT?
4	MR. MANUEL:	4	A. Shortness of breath.
.5	Q. Did did they give you any sort of	15	Q. Any other sickness that you had to
6	diagnosis as to what that screening showed?	16	claim for workers' comp?
17	Send you anything in the mail to tell you?	‡7	A. No, sir.
18	A. I	18	Q. Are you receiving
9	MR. FOXWORTH:	19	MR. FOXWORTH:
20	You're talking about the asbestos	20	I think I think he's confusing
21	screening?	21	workers' comp with disability.
22	MR. MANUEL:	22	MR. MANUEL:
23	Yeah.	23	Q. Okay. Have you had to file a
24	THE WITNESS:	24	disability claim with social security? Do you
:5	I've probably got some information,	25	receive social security disability benefits?

	Page 15	8	Page 160
1	A. Yeah.	1	
2	Q. When did you start receiving social	2	
3	security disability benefits?	3	8
4	A. Oh, let me see. I think it's been	4	
5	about a year and a half.	5	
6	Q. Did you have an attorney help you	6	- · · · · · - · - · - · - · - · - ·
7	fill out your social security paperwork?	7	
8	A. Yes, sir.	1	rave year ever smoked a pipe:
9	Q. Who was that attorney?	8	
10	A. Edna Collins in Laurel.	9	)
		10	- 1 1 1 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2
	Q. Have you ever applied for social	11	C Series Series Series Series
12	security disability and been denied?	12	
	A. Yes, sir.	13	
14	Q. Were you denied more than once?	74	Have you ever had any seizures?
15	A. Three.	15	
16	Q. Three times. Did you have to have a	16	
17	hearing?	17	A. Not as I know of.
18	A. Yes, sir.	18	Q. Do you have any allergies?
19	Q. Did y'all do that hearing up in	19	A. No, sir.
20	Jackson?	20	Q. Do you have any problems smelling
21	A. Hattiesburg.	21	odors?
⊉2	Q. Hattiesburg. Was it after the	22	A. Yes, sir.
23	hearing that you started receiving benefits?	23	Q. You do. How long have you had that
24	<ol> <li>A. That's when he put me on disability.</li> </ol>	24	problem?
25	Q. Okay. Okay. What other sources of	25	A. I don't know. I don't know for sure.
	Page 159		Page 161
1	income do you have now besides your social	1	Q. Is it something that you've always
2	security?	2	had ever since growing up or
3	A. That's all.	3	A. No, sir.
4	Q. Does your wife work?	4	Q. Okay. Is it within the last five
5	A. Yes, sir.	5	years?
6	Q. Where does she work?	6	
7	A. Lee Robinson.	7	A. On, it's less than that. Q. Less than that?
8	Q. The social security application that	8	· · · · · · · · · · · · · · · · · · ·
9	you filled out, was that the shortness of	9	A. Yes, sir.
10	breath that you talked about, was that the	1	Q. Last two years?
1	sickness that you claimed?	10	A. I'll say about three.
2	A. Yes, sir.	11	Q. Have you ever had asthma?
3		12	A. I think he did say I had asthma. I'm
4		13	not for sure, though.
5	regard to the social security disability?  A. Yes, sir.	14	Q. How about bronchitis?
.6		15	A. No, sir.
ŀ	Q. Who was the doctor that you saw?	16	Q. Emphysema?
7	A. My regular doctor is is John	17	A. Well, bronchitis? Bronchitis? I
8	Neese.	18	don't know.
9	Q. John Neese?	19	Q. Have you ever had pneumonia?
0	A. No, no. Excuse me. Excuse me. Wait	20	A. Yes, sir.
21	a minute. Lewis, Lewis Neese.	<b>P</b> 1	Q. Okay. How long ago was it that you
22	Q. Okay.	22	had pneumonia?
23	A. In Hattiesburg.	3	A. Last year.
24		4	Q. Did you have to go in the hospital
25	of the on the fact sheet that you your	5	for it?

[	Page	162	Page 164
1	A. Yes, sir.	1	
2	Q. How long were you in the hospital?	2	<ul><li>Q. Do you know when it started?</li><li>A. No, I don't know.</li></ul>
3	A. I think, four or five days.	3	Q. You said that you had to be put in
4	Q. Which hospital? Was it Southwest?	4	the hospital for pneumonia. Have you had to be
5	A. Laurel.	5	in the hospital for anything else besides
6	Q. In Laurel?	6	pneumonia?
7	A. Yes, sir.	7	A. A couple of times in Hattiesburg.
8	Q. Have you ever had any broken ribs?	8	Q. What did you have to go to the
9	A. No, sir.	9	hospital în Hattiesburg for?
10	Q. Have you ever had lung cancer, that	10	A. Same thing. Trouble breathing.
1	you know of?		Q. Trouble breathing.
12	A. Not as I know of.	12	When was it that you when were
3	Q. Have you you talked about having	13	those times that you had to go to the hospital
4	the shortness of breath. How long ago did the	$\frac{1}{4}$	in Hattiesburg? How long ago do you think it
15	shortness of breath start?	15	was?
16	A. After he took me off work.	16	A. I think both of them I think once
17	Q. Is the shortness of breath all the	17	in '03, and I think once '0 '02.
8	time, or is it only when you do activities or	18	Q. How long the times that you
19	A. Most of the time when I do a little,	19	that you've been at the hospital in Hattiesburg,
20	you know, activities.	20	how long did you have to stay overnight, I
21	Q. You're on oxygen well, I assume	‡0 21	guess I should say?
<u>2</u> 2	it's oxygen today. How long have you had the	22	A. I think, about about four, four or
22 23	oxygen tank?	‡2 23	five days.
$\frac{1}{2}$	A. '90 2004 I had it in	24	· · · · · · · · · · · · · · · · · · ·
25	MR. FOXWORTH:	25	<ul><li>Q. Have you had any surgeries at all?</li><li>A. I had a knee surgery.</li></ul>
-			
_	Page 1	103	Page 165
1	And you're not talking about this	1	Q. Is that the only time that you've had
2	tank; you're talking about when did he first get	2	surgery?
3	on oxygen?	3	A. I had a a biopsy.
4 5	MR. MANUEL:	4	Q. What what were they doing a biopsy
6	Q. Yeah. When did you first start	5	of?
7	having to do use oxygen?	6	A. I think they had thought I had
8	A. '99.	7	cancer.
9	Q. And why did they tell you that you needed to have oxygen?	8	Q. Was it of your lungs or or what
10		9	part of your body did they do the biopsy on?
11	<u> </u>	10	A. In here (witness indicating). They
12		11	did the biopsy right here.
13	gave you the oxygen?	12	Q. In in your chest.
14	A. Yes, sir.	13	Did they tell you that you had
5	<ul><li>Q. Have you ever had a heart attack?</li><li>A. I don't know.</li></ul>	14	cancer?
16		15	A. No, sir.
‡°	<ul><li>Q. Have you ever had a stroke?</li><li>A. No, sir.</li></ul>	16	Q. I'm going to ask you about a couple
18	·	17	of doctors that you have listed.
9	Q. Okay. Have you had any kind of swelling in your feet or legs?	18	Have you seen a Dr. Harron?
	A. Yes, my legs.	19	A. I have seen so many doctors, I don't
20 21 22 23	Q. When did you have swelling in your	20	know.
P 2	legs?	21	Q. Okay.
2	A. They're like that all the time.	22	A. What's his last name?
24	Q. It's like that all the time?	23	Q. Harron, H-A-R-R-O-N.
25	A. Uh-huh.	24 25	A. What's his first name? Q. Ray.
	rs. On-nun.	x n	ii Kav

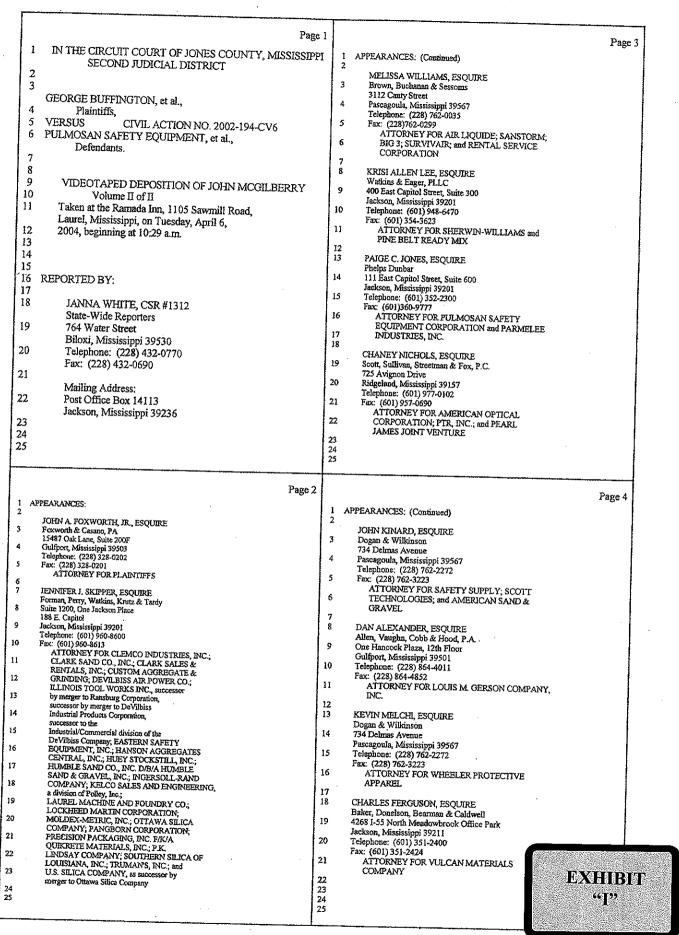
	Page 16	6	Page 168
1	A. It's got to	1	MR. MANUEL:
2	MR. FOXWORTH:	2	Is that a should I take that as a
3	If you don't know, you don't know.	3	no?
4	THE WITNESS:	4	Q. Are you
5	I don't know.	5	MR. FOXWORTH:
6	MR. MANUEL:	6	I'm currently using a suppository.
7	Q. How about a we've talked about	7	Can I bring that, too? I need some help.
8	Dr. Neese, and that's who you say is your family	8	MR. MANUEL:
9	doctor?	9	There's something up there.
10	A. Yes, sir.	10	Q. The did you have a silicosis
11	Q. And is he located in Laurel?	‡1	did you go to like have an x-ray for silicosis?
12	A. Hattiesburg.	12	A. I think I had one done, but I don't
13	Q. Hattiesburg. And Dr. Parkman?	13	know whereabout.
14	A. That's that used to be my lung	14	Q. Okay. You don't remember where it
15	doctor.	15	was?
16	Q. Your lung doctor?	16	A. Huh-uh.
17	A. Uh-huh.	17	Q. Do you did has anybody told
18	Q. And Dr. Reno, what did Dr. Reno see?	18	you that you have been diagnosed with a
19	A. They all was my lung doctor.	19	silica-related illness?
20	Q. All right. You said that you started	20	MR. FOXWORTH:
21	on the oxygen in 1999. Is that when you first	21	In other words, has he has he been
22	started having lung problems?	22	diagnosed with silicosis?
23	A. You might have to just check with the	23	MR. MANUEL:
24	doctor when I first got the lung problems, had	24	Q. Right, or silica-related illness.
25	the lung problems.	25	A. Yeah.
	Page 167		Page 169
1	<ul> <li>Q. What kind of medications do you take</li> </ul>	1	Q. Who told you that?
2	now, like pills or	١	
		2	A. I think that was on that paper that I
3	A. I take about 17 different pills.	3	A. I think that was on that paper that I got back.
4	Q. Okay.	3	got back.  Q. The paper that you got?
<b>4</b> 5	Q. Okay. MR. FOXWORTH:	3 4 5	got back.  Q. The paper that you got?  A. Uh-huh.
4 5 6	Q. Okay. MR. FOXWORTH: You're not going to make him go	3 4 5 6	got back. Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you
4 5 6 7	Q. Okay. MR. FOXWORTH: You're not going to make him go through them?	3 4 5 6 7	got back. Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody
4 5 6 7 8	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL:	3 4 5 6 7 8	got back. Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else?
4 5 6 7 8 9	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you	3 4 5 6 7 8 9	got back. Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that
4 5 6 7 8 9 0	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your	3 4 5 6 7 8 9	got back. Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the the test on it.
4 5 6 7 8 9 0	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take?	3 4 5 6 7 8 9	got back. Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the the test on it. Q. Have you had to see a doctor
4 5 6 7 8 9 0 1 2	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take? A. I take Prednisone. I take I take	3 4 5 6 7 8 9 0	got back. Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the — the test on it. Q. Have you had to see a doctor specifically about your silicosis? Have you
4 5 6 7 8 9 0 1 2 3	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take? A. I take Prednisone. I take I take the Bayer aspirin, you know, the the coat	3 4 5 6 7 8 9 0 11 2 3	got back. Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the the test on it. Q. Have you had to see a doctor specifically about your silicosis? Have you been to see a doctor about that?
4 5 6 7 8 9 0 1 2 3 4	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take? A. I take Prednisone. I take I take the Bayer aspirin, you know, the the coat the coated. I take a Buspar. I take Zocor. I	3 4 5 6 7 8 9 0 1 2 3 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4	got back. Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the the test on it. Q. Have you had to see a doctor specifically about your silicosis? Have you been to see a doctor about that? A. No, sir.
456789012345	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take? A. I take Prednisone. I take I take the Bayer aspirin, you know, the the coat the coated. I take a Buspar. I take Zocor. I take a bunch of them. I don't	3 4 5 6 7 8 9 0 1 2 3 4 5	got back.  Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the the test on it. Q. Have you had to see a doctor specifically about your silicosis? Have you been to see a doctor about that? A. No, sir. Q. Are you taking any medications right
4567890123456	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take? A. I take Prednisone. I take I take the Bayer aspirin, you know, the the coat the coated. I take a Buspar. I take Zocor. I take a bunch of them. I don't Q. Okay.	3 4 5 6 7 8 9 0 1 2 3 4 5 6	got back.  Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the the test on it. Q. Have you had to see a doctor specifically about your silicosis? Have you been to see a doctor about that? A. No, sir. Q. Are you taking any medications right now that are for silicosis?
45678901234567	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take? A. I take Prednisone. I take I take the Bayer aspirin, you know, the the coat the coated. I take a Buspar. I take Zocor. I take a bunch of them. I don't Q. Okay. A. I just can't	3 4 5 6 7 8 9 0 1 2 3 4 5 6 7	got back.  Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the the test on it. Q. Have you had to see a doctor specifically about your silicosis? Have you been to see a doctor about that? A. No, sir. Q. Are you taking any medications right now that are for silicosis? A. (No verbal response.)
456789012345678	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take? A. I take Prednisone. I take I take the Bayer aspirin, you know, the the coat the coated. I take a Buspar. I take Zocor. I take a bunch of them. I don't Q. Okay. A. I just can't Q. Can you provide your attorney with a	3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8	got back.  Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the the test on it. Q. Have you had to see a doctor specifically about your silicosis? Have you been to see a doctor about that? A. No, sir. Q. Are you taking any medications right now that are for silicosis? A. (No verbal response.) Q. Is that a no?
4567890123456789	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take? A. I take Prednisone. I take I take the Bayer aspirin, you know, the the coat the coated. I take a Buspar. I take Zocor. I take a bunch of them. I don't Q. Okay. A. I just can't Q. Can you provide your attorney with a list of the medications that you take?	3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9	got back.  Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the — the test on it. Q. Have you had to see a doctor specifically about your silicosis? Have you been to see a doctor about that? A. No, sir. Q. Are you taking any medications right now that are for silicosis? A. (No verbal response.) Q. Is that a no? A. No.
45678901234567890	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take? A. I take Prednisone. I take I take the Bayer aspirin, you know, the the coat the coated. I take a Buspar. I take Zocor. I take a bunch of them. I don't Q. Okay. A. I just can't Q. Can you provide your attorney with a list of the medications that you take? A. Yeah.	3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0	got back.  Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the the test on it. Q. Have you had to see a doctor specifically about your silicosis? Have you been to see a doctor about that? A. No, sir. Q. Are you taking any medications right now that are for silicosis? A. (No verbal response.) Q. Is that a no? A. No. Q. The lung doctors that you described
45678901234567890	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take? A. I take Prednisone. I take I take the Bayer aspirin, you know, the the coat the coated. I take a Buspar. I take Zocor. I take a bunch of them. I don't Q. Okay. A. I just can't Q. Can you provide your attorney with a list of the medications that you take? A. Yeah. MR. MANUEL:	3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1	got back.  Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the the test on it. Q. Have you had to see a doctor specifically about your silicosis? Have you been to see a doctor about that? A. No, sir. Q. Are you taking any medications right now that are for silicosis? A. (No verbal response.) Q. Is that a no? A. No. Q. The lung doctors that you described in Hattiesburg, have you talked about your test
45678901234567890	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take? A. I take Prednisone. I take I take the Bayer aspirin, you know, the the coat the coated. I take a Buspar. I take Zocor. I take a bunch of them. I don't Q. Okay. A. I just can't Q. Can you provide your attorney with a list of the medications that you take? A. Yeah.	34567890123456789012	got back.  Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the the test on it. Q. Have you had to see a doctor specifically about your silicosis? Have you been to see a doctor about that? A. No, sir. Q. Are you taking any medications right now that are for silicosis? A. (No verbal response.) Q. Is that a no? A. No. Q. The lung doctors that you described in Hattiesburg, have you talked about your test results from the silica screening with those
4567890123456789	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take? A. I take Prednisone. I take I take the Bayer aspirin, you know, the the coat the coated. I take a Buspar. I take Zocor. I take a bunch of them. I don't Q. Okay. A. I just can't Q. Can you provide your attorney with a list of the medications that you take? A. Yeah. MR. MANUEL: And, John, will you provide that to	3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1 2 3	got back.  Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else?  A. I think it was from the folks that did the the test on it. Q. Have you had to see a doctor specifically about your silicosis? Have you been to see a doctor about that? A. No, sir. Q. Are you taking any medications right now that are for silicosis?  A. (No verbal response.) Q. Is that a no? A. No. Q. The lung doctors that you described in Hattiesburg, have you talked about your test results from the silica screening with those lung doctors?
45678901234567890	Q. Okay. MR. FOXWORTH: You're not going to make him go through them? MR. MANUEL: Q. No. I was just going to ask, do you know any off I mean, off the top of your head, what you what you take? A. I take Prednisone. I take I take the Bayer aspirin, you know, the the coat the coated. I take a Buspar. I take Zocor. I take a bunch of them. I don't Q. Okay. A. I just can't Q. Can you provide your attorney with a list of the medications that you take? A. Yeah. MR. MANUEL: And, John, will you provide that to us?	34567890123456789012	got back.  Q. The paper that you got? A. Uh-huh. Q. Do you know if that paper that you got was from a doctor, or was it from somebody else? A. I think it was from the folks that did the the test on it. Q. Have you had to see a doctor specifically about your silicosis? Have you been to see a doctor about that? A. No, sir. Q. Are you taking any medications right now that are for silicosis? A. (No verbal response.) Q. Is that a no? A. No. Q. The lung doctors that you described in Hattiesburg, have you talked about your test results from the silica screening with those

	Page 170	0	Page 172
1	scheduled to have an appointment with the lung	1	seeing them all.
2	doctors?	2	MR. MANUEL:
3	A. Four months.	3	Q. Do you remember seeing any – I mean,
4	Q. How did you find out that they were	4	there's the one here that's got your signature
5	doing a silicosis screening?	5	on it, which is Exhibit 3 that you signed this
6	A. A friend told me.	6	morning in front of us. Is that correct?
7	Q. Who was that?	7	A. Right.
8	A. What was his name?	8	Q. Okay. Do you and then we've got
9	MR. FOXWORTH:	9	another
10	How much more do you think you have,	10	MR. MANUEL:
Ĭĭ	Will?	$1_1$	I'm going to make this Exhibit 5.
2	MR. MANUEL:	$\frac{1}{2}$	(Exhibit 5 was marked.)
13	Huh?	$\frac{1}{3}$	MR. FOXWORTH:
4	MR. FOXWORTH:	$\frac{1}{4}$	
5	How much more do you think you have?	15	Which one does that go with? MR. MANUEL:
16	MR. MANUEL:	16	This is
17	Not much. Very quickly.	17	
Ţ '8	Q. Do you remember who it was?	18	Q. Was is that your signature there on Exhibit Number 5?
19	A. No, I don't know. Or I heard, one,		A. Yeah.
	something like that. I don't know.	20	MR. FOXWORTH:
₽ U 10 1	Q. I'm going to I don't want to know	21	
1 2	what you and your attorney specifically talked	ŧ	Which one do you want to put that one
20 21 22 23	about, but we have some fact sheets in which	22 23	with, 1 or 2?
24	your work history was listed and products that	24	MR. MANUEL:
1 <sup>3</sup> 25	you worked with. And we've got three different	25 25	Do you know which one it's with? MR. FOXWORTH:
-			
]_	Page 171		Page 173
I	ones. Do you let me show you these three	1	It goes with 2.
2	MR. FOXWORTH:	2	MR. MANUEL:
3	Do you want to know why we kept	3	It goes with Number 2.
4	supplementing?	4	MR. FOXWORTH:
5	MR. MANUEL:	5	Okay.
6	Q. Well, I want to know, have you ever	6	MR. MANUEL:
7	seen these documents before today?	7	Q. Do you remember signing any other
8	MR. FOXWORTH:	8	papers besides the one that we've shown with
9	Do they have a signature on them?	9	Exhibit 2 and the ones with Exhibit 3?
.0	MR. MANUEL:	10	MR. FOXWORTH:
.1	This one does. And that's what I was	11	He just wants to know if those are
2	going to ask.	12	the only ones you signed.
_3	Q. Have you ever and let me just ask	13	MR. MANUEL:
. <b>4</b>	that question: Have you seen these documents	14	Q. Yeah.
. 5	before today?	15	A. Yes, them are the only papers I've
-6	A. Yeah.	6	signed.
.7	Q. You have? Which ones of them have	17	Q. That's the only ones you signed.
.8	you seen? There's three different documents	8	Did you look through those documents
.9	here.	9	before
0		20	A. Yeah. That's
1		21	Q you signed them?
2		22	A when when I signed it one time,
3		23	they left off a job.
: <b>4</b> :5	Yeah.	24	Q. Okay.
<u>ی</u>	MR. FOXWORTH:	<u>25</u>	A. So I imagine that's why they had to

į	Page 17	4	Page 17
1	redo them, because	1	A. Yes.
2	Q. Is that the only difference that you	2	Q. Okay. When did you look at those
3	knew of between the two the two papers, was	3	pictures? How long ago was it?
4	that they left off a job?	4	A. When we first did them papers.
5	A. Yeah. They left off some jobs off of	5	Q. When you first did the papers is when
6	them.	6	
7		7	you looked through them?  A. Uh-huh.
8	Q. Have you ever looked at a do you	- 1	
	know of anything else that you told them was	8	Q. Did you do anything
9	different between or any other problems that	9	A. Well, I think they must have did the
10	they had with	10	papers after you know.
11	MR. FOXWORTH:	11	Q. After? After you looked at them?
12	Don't we're not going into any	12	A. Uh-huh.
1	kind of attorney/client communications.	13	Q. Did you did do you know where
14	MR. MANUEL:	14	those pictures came from or or how they all
5	I know.	15	got put together?
16	MR. FOXWORTH:	16	A. No, sir.
17	You can just ask him if he knows the	17	Q. Did you do anything and I don't
18	difference.	18	want to know about talking with your attorney,
19	MR. MANUEL:	19	but did you talk to anybody else besides your
20	I know. I'm asking that's what	20	attorney to prepare for this deposition today?
21 22 23	I'm asking. And let me finish my question	21	A. No, sir.
¥2	before you tell me I'm doing it bad.	22 23	Q. Did you go and look at anything or
23	MR. FOXWORTH:		review anything in preparation for this
₽4	No.	<b>≱</b> 4	deposition today?
25	MR. MANUEL:	25	MR. FOXWORTH:
		1	
	Page 175		Page 17
1	Q. Do you was there anything else	1	
1 2	Q. Do you was there anything else besides leaving off a job that you saw was wrong		Page 17 You talking about other than his fact sheet?
	Q. Do you was there anything else	1	You talking about other than his fact
2	Q. Do you was there anything else besides leaving off a job that you saw was wrong	1 2	You talking about other than his fact sheet? MR. MANUEL:
2 3	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?	1 2 3	You talking about other than his fact sheet? MR. MANUEL:
2 3 4	Q. Do you was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off that that one left off a	1 2 3 4	You talking about other than his fact sheet? MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah.
2 3 4 5	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other	1 2 3 4 5	You talking about other than his fact sheet? MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact
2 3 4 5 6	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?	1 2 3 4 5 6	You talking about other than his fact sheet? MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember?
2 3 4 5 6 7	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:	1 2 3 4 5 6 7	You talking about other than his fact sheet? MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact
2 3 4 5 6 7 8	Q. Do you was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If	1 2 3 4 5 6 7 8	You talking about other than his fact sheet? MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same.
2 3 4 5 6 7 8 9	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just	1 2 3 4 5 6 7 8 9	You talking about other than his fact sheet? MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same?
2 3 4 5 6 7 8 9	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.	1 2 3 4 5 6 7 8 9 0	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same. Q. Okay. So you couldn't tell which one
2 3 4 5 6 7 8 9 0	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.  A. I don't remember — don't remember.	1 2 3 4 5 6 7 8 9 0 1 1	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same.
2 3 4 5 6 7 8 9 0 1 2	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.  A. I don't remember — don't remember. VIDEO TECHNICIAN:	1 2 3 4 5 6 7 8 9 0 1 2	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same. Q. Okay. So you couldn't tell which one it would be that you looked at? You just know
2 3 4 5 6 7 8 9 0 1 2 3	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.  A. I don't remember — don't remember.  VIDEO TECHNICIAN:  Excuse me. I need to change out the	1 2 3 4 5 6 7 8 9 0 1 2 3	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same. Q. Okay. So you couldn't tell which one it would be that you looked at? You just know you looked at a fact sheet; is that right?
2 3 4 5 6 7 8 9 0 1 2 3 4	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.  A. I don't remember — don't remember. VIDEO TECHNICIAN:  Excuse me. I need to change out the tape.	12345678901234	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same. Q. Okay. So you couldn't tell which one it would be that you looked at? You just know you looked at a fact sheet; is that right? A. Uh-huh.
2 3 4 5 6 7 8 9 0 1 2 3 4 5	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.  A. I don't remember — don't remember.  VIDEO TECHNICIAN:  Excuse me. I need to change out the tape.  MR. MANUEL:	123456789012345	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same. Q. Okay. So you couldn't tell which one it would be that you looked at? You just know you looked at a fact sheet; is that right? A. Uh-huh. Q. Is that yes? A. Yes, sir.
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.  A. I don't remember — don't remember.  VIDEO TECHNICIAN:  Excuse me. I need to change out the tape.  MR. MANUEL:  Okay.	1234567890123456	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same. Q. Okay. So you couldn't tell which one it would be that you looked at? You just know you looked at a fact sheet; is that right? A. Uh-huh. Q. Is that yes? A. Yes, sir. Q. Okay. The and that one time
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.  A. I don't remember — don't remember.  VIDEO TECHNICIAN:  Excuse me. I need to change out the tape.  MR. MANUEL:  Okay.  VIDEO TECHNICIAN:	12345678901234567	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same. Q. Okay. So you couldn't tell which one it would be that you looked at? You just know you looked at a fact sheet; is that right? A. Uh-huh. Q. Is that yes? A. Yes, sir. Q. Okay. The and that one time before you've only looked at that picture
23456789012345678	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.  A. I don't remember — don't remember.  VIDEO TECHNICIAN:  Excuse me. I need to change out the tape.  MR. MANUEL:  Okay.  VIDEO TECHNICIAN:  Off the record. The time is 3:43.	123456789012345678	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same. Q. Okay. So you couldn't tell which one it would be that you looked at? You just know you looked at a fact sheet; is that right? A. Uh-huh. Q. Is that yes? A. Yes, sir. Q. Okay. The and that one time before you've only looked at that picture book one time before this deposition; is that
234567890123456789	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.  A. I don't remember — don't remember.  VIDEO TECHNICIAN:  Excuse me. I need to change out the tape.  MR. MANUEL:  Okay.  VIDEO TECHNICIAN:  Off the record. The time is 3:43.  (Off the record.)	12345678901234567890	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same. Q. Okay. So you couldn't tell which one it would be that you looked at? You just know you looked at a fact sheet; is that right? A. Uh-huh. Q. Is that yes? A. Yes, sir. Q. Okay. The and that one time before you've only looked at that picture book one time before this deposition; is that right?
2345678901234567890	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.  A. I don't remember — don't remember.  VIDEO TECHNICIAN:  Excuse me. I need to change out the tape.  MR. MANUEL:  Okay.  VIDEO TECHNICIAN:  Off the record. The time is 3:43.  (Off the record.)	123456789012345678901	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same. Q. Okay. So you couldn't tell which one it would be that you looked at? You just know you looked at a fact sheet; is that right? A. Uh-huh. Q. Is that yes? A. Yes, sir. Q. Okay. The and that one time before you've only looked at that picture book one time before this deposition; is that right? A. Right.
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.  A. I don't remember — don't remember.  VIDEO TECHNICIAN:  Excuse me. I need to change out the tape.  MR. MANUEL:  Okay.  VIDEO TECHNICIAN:  Off the record. The time is 3:43.  (Off the record.)  VIDEO TECHNICIAN:  Back on record. The time is 3:44.  MR. MANUEL:	1234567890123456789012	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same. Q. Okay. So you couldn't tell which one it would be that you looked at? You just know you looked at a fact sheet; is that right? A. Uh-huh. Q. Is that yes? A. Yes, sir. Q. Okay. The and that one time before you've only looked at that picture book one time before this deposition; is that right? A. Right. Q. Okay. And was anybody else with
2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9 0 1 2 1 2 1 1 2 1 2 1 2 1 1 2 1 2 1 1 2 1 2 1 1 2 2 2 2 2 2 2 2 3 2 3	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.  A. I don't remember — don't remember.  VIDEO TECHNICIAN:  Excuse me. I need to change out the tape.  MR. MANUEL:  Okay.  VIDEO TECHNICIAN:  Off the record. The time is 3:43.  (Off the record.)  VIDEO TECHNICIAN:  Back on record. The time is 3:44.  MR. MANUEL:  Q. Mr. McGilberry, have you looked at	12345678901234567890123	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same. Q. Okay. So you couldn't tell which one it would be that you looked at? You just know you looked at a fact sheet; is that right? A. Uh-huh. Q. Is that yes? A. Yes, sir. Q. Okay. The and that one time before you've only looked at that picture book one time before this deposition; is that right? A. Right. Q. Okay. And was anybody else with you
23456789012345678901223	Q. Do you — was there anything else besides leaving off a job that you saw was wrong with the paper that you signed that's Exhibit 2?  Do you remember anything else other than it left off — that that one left off a job?  MR. FOXWORTH:  If you remember, you remember. If you don't, you don't. It doesn't matter. Just answer his question.  A. I don't remember — don't remember.  VIDEO TECHNICIAN:  Excuse me. I need to change out the tape.  MR. MANUEL:  Okay.  VIDEO TECHNICIAN:  Off the record. The time is 3:43.  (Off the record.)  VIDEO TECHNICIAN:  Back on record. The time is 3:44.  MR. MANUEL:	1234567890123456789012	You talking about other than his fact sheet?  MR. MANUEL: Q. Did you look at your fact sheet? A. Yeah. Q. You did. Which one of the three fact sheets did you look at, if you remember? A. They all look the same. Q. They all look the same? A. They're all the same. Q. Okay. So you couldn't tell which one it would be that you looked at? You just know you looked at a fact sheet; is that right? A. Uh-huh. Q. Is that yes? A. Yes, sir. Q. Okay. The and that one time before you've only looked at that picture book one time before this deposition; is that right? A. Right. Q. Okay. And was anybody else with

## 

	Page 178		Page 180
1	A. No.	1	SIGNATURE OF WITNESS
2	MR. MANUEL:	2	l,, do
3	I think that's all I have for right	3	solemnly swear that I have read the foregoing
4	now. Do we want to	4	pages and that the same is a true and
5	MR. FOXWORTH:	5	correct transcript of the testimony given by me
	What time tomorrow?	6	at the time and place hereinbefore set forth,
6		7	with the following corrections:
7	MR. MANUEL:	8	PAGE: LINE: SHOULD READ: REASON FOR CHANGE:
8	You tell me. Do you want do you	9	•
9	want to go off the record?	10	
10	VIDEO IECHNICHH.	l	
11	On the record. The time is 5.47.	11	
12	(Deposition recessed at	12	
13	5.47 p.m./	13	
14		14	
15		15	
16		16	j
‡7		17	NOTARIZATION
18		18	I,, notary public
9		19	for the State of Mississippi,
20		20	County, do hereby certify that
21		21	personally appeared before me this day of
22		22	, 2004, at, Mississippi.
2₃		23	My Commission Expires:
₹ 24		24	
₹5 25		25	(NOTARY PUBLIC)
	Page 179		
1	CERTIFICATE OF COURT REPORTER		
2	I, GERI BETH LADNER, CSR, Court Reporter		
3	and Notary Public, in and for the County of		
4	Harrison, State of Mississippi, hereby certify		
5	that the foregoing pages contain a true and		
6	correct transcript of the testimony of the		
7	witness, as taken by me at the time and place		
8	heretofore stated, and later reduced to		
9	typewritten form by computer-aided transcription		
0	under my supervision, to the best of my skill		
11 2	and ability.  I further certify that I placed the witness		
3	I further certify that I placed the witness under oath to truthfully answer all questions in		
4	this matter under the authority vested in me by		į
1.5	the State of Mississippi.		
16	I further certify that I am not in the		
7	employ of, or related to, any counsel or party		
8	in this matter, and have no interest, monetary		İ
9	or otherwise, in the final outcome of the		
‡0	proceedings.		
£0 21	Witness my signature and seal, this the		
22	day of , 2004.		
23	uny 01 , 2007.		
24			And the second s
ľ	GERI BETH LADNER, CSR, #1219		
25	My Commission Expires February 11, 2008		



_		Page	5		P
1 2	APPEARANCES: (Continued)			1 APPEARANCES: (Continued)	•
2	CHIP WILBANKS, ESQUIRE			APPEARANCES: (Continued)	
3	Wells, Moore, Simmons & Hubbard		Ι,		
	4450 Old Canton Road, Suite 200		.   .	BETH WINDHAM, ESQUIRE	
	Jackson, Mississippi 39211		3	The writing Liu,	
	Telephone: (601) 354-5400 Fax: (601) 355-5850			315 Hemphill Street	
	ATTORNEY FOR MINE SAFETY		4		
	APPLIANCES COMPANY (MSA)			Telephone: (601) 583-2671	
	and SCHRAMM		5	Fax: (601) 583-2677	
	PANDID LOUIS TO THE TOTAL			ATTORNEY FOR PHILLIPS BUILDING	ST IDE
	RANDI P. MUELLER, ESQUIRE Page, Mannino, Peresich & McDermon		6	o Bolling	JULI
	759 Vieux Marche' Mall		7	CORRIE SCHULER, ESQUIRE	
	Bilexi, Mississippi 39530			Steen, Dalehite & Pace	
	Telephone: (228) 374-2100		8		
	Fax: (228) 432-5539		"	Jackson Missississississississississississississ	
	ATTORNEY FOR GREEN BROTHERS GRAVEL COMPANY and appearing		وا	Jackson, Mississippi 39205-0900	
	specially without waiving any		'	~ ~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	
	defenses for EMPIRE ABRASIVES		1,,	Fax: (601) 353-3782	
	EQUIPMENT CORPORATION		10	ATTORNEY FOR RENT ALL OF LAURE	EL. IN
	DAVID GARAGE ESOT		11	·	_,
	DAVID GARNER, ESQUIRE Sessums, Dallas & Morrison		12		
	2829 Lakeland Drive, Suite 1650		13		
	Jackson, Mississippi 39212		14		
	Telephone: (601) 933-2040		15		
	Fax: (601) 933-2050		16		
	ATTORNEY FOR VALLEN CORPORATION		17		
	TREA SOUTHERLAND, ESQUIRE		18		
	Holcomb Dunbar		19		
	1217 Jackson Avenue		20		
	Oxford, Mississippi 38655-0707 Telephone: (662) 234-8775	•			
	Fex: (662) 238-7552		21		
	ATTORNEY FOR BOB SCHMIDT, INC.		22		
	The state of the s		23		
			24		
ΑP	PEARANCES: (Continued)	Page 6			_
ΑP	PEARANCES: (Continued)	Page 6	1	T-A-B-L-E O-F C-O-N-T-E-N-T-S	_
Α₽	KIMBERLY WALLACE, ESQUIRE	Page 6		T-A-B-L-E O-F C-O-N-T-E-N-T-S	_
AP	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol	Page 6	1 2	There is a second	_
AP	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 235 East Capitol Jackson, Mississippi 39201	Page 6	1 2 3	Examination by: Page	_
AP	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420	Page 6	1 2 3 4	Examination by: Page Ms. Skipper 10	_
AP	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425	Page 6	1 2 3	Examination by: Page Ms. Skipper 10	_
AP	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 988-9425 ATTORNEY FOR LONE STAR INDUSTRIES	Page 6	1 2 3 4	Examination by: Page Ms. Skipper 10 Ms. Lee 42	_
AP	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 Fast Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL ESOURE	Page 6	1 2 3 4 5 6	Examination by: Page Ms. Skipper 10 Ms. Lee 42 Ms. Williams 90	_
T.F	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Aran, Rose & White, LLP	Page 6	1 2 3 4 5 6 7	Examination by: Page Ms. Skipper 10 Ms. Lee 42 Ms. Williams 90 Ms. Wallace 100	_
¥.P	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 235 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Swite 450, One Jackson Place 188 East Capitol Street	Page 6	1 2 3 4 5 6 7 8	Examination by: Page Ms. Skipper 10 Ms. Lee 42 Ms. Williams 90 Ms. Wallace 100 Ms. Mueller 102	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 Fast Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215	Page 6	1 2 3 4 5 6 7	Examination by: Page Ms. Skipper 10 Ms. Lee 42 Ms. Williams 90 Ms. Wallace 100 Ms. Mueller 102	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000	Page 6	1 2 3 4 5 6 7 8	Examination by: Page Ms. Skipper 10 Ms. Lee 42 Ms. Williams 90 Ms. Wallace 100 Ms. Mueller 102 Ms. Jones 108	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Aran, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-3000 ATTORNEY FOR MININESCITA MINING	Page 6	1 2 3 4 5 6 7 8 9	Examination by:  Ms. Skipper  Ms. Lee  Ms. Williams  Ms. Wallace  Ms. Mueller  Ms. Jones  Mr. Kinard  Page  10  10  10  10  102  108  112	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Aran, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-3000 ATTORNEY FOR MININESCITA MINING	Page 6	1 2 3 4 5 6 7 8 9 10	Examination by:  Ms. Skipper  Ms. Lee  Ms. Williams  Ms. Wallace  Ms. Mueller  Ms. Jones  Mr. Kinard  Ms. Windham  Page  10  10  10  10  112  120	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 Fast Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-3000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M)	Page 6	1 2 3 4 5 6 7 8 9	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-3000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE	Page 6	1 2 3 4 5 6 7 8 9 10 11 12	Examination by:  Ms. Skipper  Ms. Lee  Ms. Williams  Ms. Wallace  Ms. Wallace  Ms. Mueller  Ms. Jones  Mr. Kinard  Ms. Windham  Mr. Alexander  Page  10  10  11  12  127	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-8000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates	Page 6	1 2 3 4 5 6 7 8 9 10 11 12 13	Examination by:  Ms. Skipper  Ms. Lee  Ms. Williams  Ms. Wallace  Ms. Mueller  Ms. Jones  Mr. Kinard  Ms. Windham  Mr. Alexander  Mr. Southerland  Page  10  10  Ms. Hope  10  10  10  10  10  11  12  130	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 235 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Swite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-3000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006	Page 6	1 2 3 4 5 6 7 8 9 10 11 12 13	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006 Telephone: (713) 526-7474	Page 6	1 2 3 4 5 6 7 8 9 10 11 12 13	Examination by:  Ms. Skipper  Ms. Lee  Ms. Williams  Ms. Wallace  Ms. Mueller  Ms. Jones  Mr. Kinard  Ms. Windham  Mr. Alexander  Mr. Southerland  Ms. Skipper  100  Page  100  100  100  101  100  100  100  1	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-3000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006 Ielephone: (713) 526-7474 Fax: (713) 526-7720	Page 6	1 2 3 4 5 6 7 8 9 10 11 12 13	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006 Telephone: (713) 526-7474	Page 6	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134         Mr. Manuel       136	_
1	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-8000 Fax: (601) 948-3000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006 Ielephone: (713) 526-7474 Fax: (713) 526-7720 ATTORNEY FOR E.D. BULLARD COMPANY DAVID KRAUSE, ESOLIRE	Page 6	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134         Mr. Manuel       136         Stipulation       9	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Aran, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-8000 Fax: (601) 948-8000 Fax: (601) 948-8000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M)  ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates 1618 Mt. Vernon, Suite A. Houston, Texas 77006 Ielephone: (713) 526-7474 Fax: (713) 526-7720 ATTORNEY FOR ED. BULLARD COMPANY DAVID KRAUSE, ESQUIRE Janiel, Coker, Horton & Bell. P.A.	Page 6	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134         Mr. Manuel       136         Stipulation       9         Certificate of Reporter       141	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-8000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006 Ielephone: (713) 526-7474 Fax: (713) 526-7720 ATTORNEY FOR E.D. BULLARD COMPANY DAVID KRAUSE, ESQUIRE Daniel, Coker, Horton & Bell, P.A. 400 Old Canton Road	Page 6	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134         Mr. Manuel       136         Stipulation       9         Certificate of Reporter       141	_
	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-3000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006 Ielephone: (713) 526-7474 Fax: (713) 526-7720 ATTORNEY FOR E.D. BULLARD COMPANY DAVID KRAUSE, ESQUIRE Daniel, Coker, Horton & Bell, P.A. 4400 Old Canton Road bite 400	Page 6	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134         Mr. Manuel       136         Stipulation       9         Certificate of Reporter       141         Witness Signature Sheet       142	_
111111111111111111111111111111111111111	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-8000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006 Telephone: (713) 526-7474 Fax: (713) 526-7720 ATTORNEY FOR ED. BULLARD COMPANY DAVID KRAUSE, ESQUIRE Daniel, Coker, Horton & Bell, P.A. 400 Old Canton Road bite 400 ackson, Mississippi 39211 elephone: (601) 969-7607	Page 6	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134         Mr. Manuel       136         Stipulation       9         Certificate of Reporter       141         Witness Signature Sheet       142         Marked Question - Page 39, Line 7	_
111111111111111111111111111111111111111	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street 188 East Capitol Street 188 East Capitol Street 188 East Capitol Street 187 Edephone: (601) 948-8000 Fax: (601) 948-8000 Fax: (601) 948-3000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006 16lephone: (713) 526-7474 Fax: (713) 526-7720 ATTORNEY FOR E.D. BULLARD COMPANY DAVID KRAUSE, ESQUIRE Daniel, Coker, Horton & Bell, P.A. 4400 Old Canton Road bite 400 ackson, Mississippi 39211 16lephone: (601) 969-7607 ax: (601) 969-1116	Page 6	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134         Mr. Manuel       136         Stipulation       9         Certificate of Reporter       141         Witness Signature Sheet       142	_
) ) 4 S J	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-8000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006 Telephone: (713) 526-7474 Fax: (713) 526-7720 ATTORNEY FOR ED. BULLARD COMPANY DAVID KRAUSE, ESQUIRE Daniel, Coker, Horton & Bell, P.A. 400 Old Canton Road bite 400 ackson, Mississippi 39211 elephone: (601) 969-7607	Page 6	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134         Mr. Manuel       136         Stipulation       9         Certificate of Reporter       141         Witness Signature Sheet       142         Marked Question - Page 39, Line 7	_
]	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-8000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006 Ielephone: (713) 526-7474 Fax: (713) 526-7720 ATTORNEY FOR ED. BULLARD COMPANY DAVID KRAUSE, ESQUIRE Daniel, Coker, Horton & Bell, P.A. 400 Old Canton Road bite 400 ackson, Mississippi 39211 elephone: (601) 969-7607 ax: (601) 969-1116 ATTORNEY FOR BLAIN SAND AND GRAVEL	Page 6	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134         Mr. Manuel       136         Stipulation       9         Certificate of Reporter       141         Witness Signature Sheet       142         Marked Question - Page 39, Line 7       EXHIBITS	_
]	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street 189 East Capitol Street 189 East Capitol Street 188 East Capitol Street 189 East Capitol Street 189 East Capitol Street 189 East Capitol Street 180 East Capitol S		1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134         Mr. Manuel       136         Stipulation       9         Certificate of Reporter       141         Witness Signature Sheet       142         Marked Question - Page 39, Line 7       EXHIBITS	_
)	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-8000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006 Ielephone: (713) 526-7474 Fax: (713) 526-7720 ATTORNEY FOR ED. BULLARD COMPANY DAVID KRAUSE, ESQUIRE Daniel, Coker, Horton & Bell, P.A. 400 Old Canton Road bûte 400 ackson, Mississippi 39211 elephone: (601) 969-1116 ATTORNEY FOR BLAIN SAND AND GRAVEL IVAN BURGHARD, ESQUIRE		1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134         Mr. Manuel       136         Stipulation       9         Certificate of Reporter       141         Witness Signature Sheet       142         Marked Question - Page 39, Line 7       EXHIBITS         Exhibit 6,       Copy of picture of Sanstorm - Bowen	Pag
]	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Aran, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006 Telephone: (713) 526-474 Fax: (713) 526-7720 ATTORNEY FOR ED. BULLARD COMPANY DAVID KRAUSE, ESQUIRE Daniel, Coker, Horton & Bell, P.A. 4400 Old Canton Road bute 400 ackson, Mississippi 39211 Telephone: (601) 969-7607 ax: (601) 969-1116 ATTORNEY FOR BLAIN SAND AND GRAVEL IVAN BURGHARD, ESQUIRE Lien, Allen, Boerner & Breeland, PLLC 14 Justice Street 164 Justice Street 164 Justice Street 164 Justice Street 165 Justice Street 165 Justice Street 166 Justice Street 166 Justice Street 166 Justice Street 166 Justice Street 167 Justice Street 168 Justice Street 168 Justice Street 169 Jus		1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134         Mr. Manuel       136         Stipulation       9         Certificate of Reporter       141         Witness Signature Sheet       142         Marked Question - Page 39, Line 7       EXHIBITS         Exhibit 6,       Copy of picture of Sanstorm - Bowen	_
I I I I I I I I I I I I I I I I I I I	KIMBERLY WALLACE, ESQUIRE Barfield & Associates 233 East Capitol Jackson, Mississippi 39201 Telephone: (601) 968-9420 Fax: (601) 968-9425 ATTORNEY FOR LONE STAR INDUSTRIES WILL MANUEL, ESQUIRE Bradley, Arant, Rose & White, LLP Suite 450, One Jackson Place 188 East Capitol Street Jackson, Mississippi 39215 Telephone: (601) 948-8000 Fax: (601) 948-8000 ATTORNEY FOR MINNESOTA MINING and MANUFACTURING COMPANY (3M) ABEL K. MANII, ESQUIRE Steve A. Bryant & Associates 3618 Mt. Vernon, Suite A Houston, Texas 77006 Ielephone: (713) 526-7474 Fax: (713) 526-7720 ATTORNEY FOR ED. BULLARD COMPANY DAVID KRAUSE, ESQUIRE Daniel, Coker, Horton & Bell, P.A. 400 Old Canton Road bûte 400 ackson, Mississippi 39211 elephone: (601) 969-1116 ATTORNEY FOR BLAIN SAND AND GRAVEL IVAN BURGHARD, ESQUIRE		1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Examination by:       Page         Ms. Skipper       10         Ms. Lee       42         Ms. Williams       90         Ms. Wallace       100         Ms. Mueller       102         Ms. Jones       108         Mr. Kinard       112         Ms. Windham       120         Mr. Alexander       127         Mr. Southerland       130         Ms. Skipper       131         Mr. Foxworth       134         Mr. Manuel       136         Stipulation       9         Certificate of Reporter       141         Witness Signature Sheet       142         Marked Question - Page 39, Line 7       EXHIBITS	_

		<del></del>	
	Page	9	Page 1
1			represent. I represent Clemco, Clark, Custom,
2	and agreed by and	1	
] 3	rand restrict, and again alon	1	
4		1 4	
5	1 July I was as all this will place	5	
6		16	
7		1 7	
8		8	ask you a couple of questions about what you
9		9	J
10	That the formality of READING AND SIGNING	10	· · · · · · · · · · · · · · · · · · ·
11		11	y y man made y but made offic
12		12	To I I I I I I I I I I I I I I I I I I I
13	The state of the s	ł	of Stock Sint of Finite to
14		13	
15		14	
16		15	C. The residence of the state o
17		16	
18		17	The second secon
19		18	the state of the s
20		19	
ł		20	cy y y
21		21	A. Yes, ma'am.
22		22	
23		23	the state of the s
24		24	C. The state of th
25		25	A. We have a dinner break.
		╂	
	Page 10		Page 12
	VIDEO SPECIALIST:	1	Q. How long was your dinner break?
2	Good morning. This is Day 2 of the	2	A. An hour.
3	videotape deposition of John McGilberry taken by	3	Q. Okay.
4	counsel for the defendants in the matter of George	4	A. And breaks in between.
5	Buffington, et al, versus Pulmosan Safety	5	Q. Were those just like 15 minutes?
6	Equipment, et al, in the Circuit Court of Jones	6	A. 15, 20 minutes, something like that.
7	County, Mississippi, Second Judicial District,	7	Q. Yesterday you talked about a hood that
8	Civil Action Number 2002-194-CV6. Today's date is	8	you used at Pittman. Do you know who manufactured
9	April 6, 2004. The time is 10:29 a.m.	9	that hood?
10	JOHN MCGILBERRY,	10	A. No, ma'am.
11	having been previously sworn, was examined	11	Q. Do you know who supplied the hood?
12	and testified as follows:	12	A. No, ma'am.
13	EXAMINATION	13	Q. The sand that you used at Pittman
14	BY MS. SKIPPER:	14	and right now until we change, I'm just going to
15	Q. Mr. McGilberry, my name is Jennifer	15	talk about your time at Pittman.
16	Skipper. And yesterday you were put under oath.	16	A. Yes, ma'am.
17	And I want you to understand that today that oath	17	Q. The sand you testified you thought came
18	is still in effect, and you are testifying as if	18	from Laurel Machine & Foundry. Did you ever go to
19	you were in court.	19	Laurel Machine and pick anything up?
20	A. Yes, ma'am.	20	A. We picked up iron at Laurel Machine &
21	Q. Do you understand?	21	Foundry.
22	A. Yes, ma'am.	22	Q. You picked up what?
23	Q. As I said, my name is Jennifer.	23	A. Iron. Angle iron.
24	Skipper. I represent a number of defendants. As	24	Q. Okay.
25	requested by your attorney, I'll tell you who I	25	A. Steel.
			5001.

Page	13	Page 15
Q. Did you ever pick up sand at Laurel	] ]	Q. Okay. Did you ever take the time to
	2	2 stop and read the warnings on any of the sand bags
	3	3 that you used?
Q. Okay. So you wouldn't be able to	4	
testify that any of the sand that you used at	5	J Zat Zate Aldii bi Cilicii (Ci
	6	if he saw any. How can you presume he would or
	7	would not take time
get the angle steel from I small 3 (		
there anybody you went in to talk to?		
	- 1	
Jack are outer - 1		when I do a dioni;
	- 1	and and a south the state of th
		O THE PROPERTY OF THE PROPERTY
at Laurel Machine?		C. T. S.
		<b>5</b>
you know, or either he already done ordered it		
		Toodii bookii
	1	8
he picking up something for Tom Pittman.	1	On this sand bag.
	,	MR. FOXWORTH:
walked in to Laurel Machine and told them that Tom		Rephrase your question.
had an order?	24	MS. SKIPPER:
A. That he had an order?	25	Okay.
· ·		Page 16
		Q. Over the time that you used sand in
Pittman's?	1	your work history, did you ever stop and read the
	1	warnings that were on the bags?  A. No.
Q. And who are his sons?	1	
2. 111d vilo at c 1113 50115 !	1 5	
A. Jeff.	5	Q. Okay. Can you tell me how many pounds
	5 6 7	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?
A. Jeff. Q. Jerry Pittman? A. Jeff.	6	Q. Okay. Can you tell me how many pounds that brown bag with red writing was? MR. FOXWORTH:
<ul><li>A. Jeff.</li><li>Q. Jerry Pittman?</li><li>A. Jeff.</li><li>Q. Jeff. Sorry. And is there another</li></ul>	6 7	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did
<ul><li>A. Jeff.</li><li>Q. Jerry Pittman?</li><li>A. Jeff.</li><li>Q. Jeff. Sorry. And is there another son?</li></ul>	6 7 8	Q. Okay. Can you tell me how many pounds that brown bag with red writing was? MR. FOXWORTH:
<ul> <li>A. Jeff.</li> <li>Q. Jerry Pittman?</li> <li>A. Jeff.</li> <li>Q. Jeff. Sorry. And is there another son?</li> <li>A. No. Just one, Jeff.</li> </ul>	6 7 8 9	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did that yesterday. Don't guess. If you know, you
<ul> <li>A. Jeff.</li> <li>Q. Jerry Pittman?</li> <li>A. Jeff.</li> <li>Q. Jeff. Sorry. And is there another son?</li> <li>A. No. Just one, Jeff.</li> <li>Q. Okay. Where is Jeff today? Is he</li> </ul>	6 7 8 9 10 11 12	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did that yesterday. Don't guess. If you know, you know.
<ul> <li>A. Jeff.</li> <li>Q. Jerry Pittman?</li> <li>A. Jeff.</li> <li>Q. Jeff. Sorry. And is there another son?</li> <li>A. No. Just one, Jeff.</li> <li>Q. Okay. Where is Jeff today? Is he still in Laurel?</li> </ul>	6 7 8 9 10 11 12 13	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did that yesterday. Don't guess. If you know, you know.  A. Hundred pounds.  MS. SKIPPER:  Q. Did you ever see any pictures or logos
<ul> <li>A. Jeff.</li> <li>Q. Jerry Pittman?</li> <li>A. Jeff.</li> <li>Q. Jeff. Sorry. And is there another son?</li> <li>A. No. Just one, Jeff.</li> <li>Q. Okay. Where is Jeff today? Is he still in Laurel?</li> <li>A. I have no idea.</li> </ul>	6 7 8 9 10 11 12 13 14	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did that yesterday. Don't guess. If you know, you know.  A. Hundred pounds.  MS. SKIPPER:  Q. Did you ever see any pictures or logos on the brown bag with red writing?
<ul> <li>A. Jeff.</li> <li>Q. Jerry Pittman?</li> <li>A. Jeff.</li> <li>Q. Jeff. Sorry. And is there another son?</li> <li>A. No. Just one, Jeff.</li> <li>Q. Okay. Where is Jeff today? Is he still in Laurel?</li> <li>A. I have no idea.</li> <li>Q. Okay. You talked about some brown sand</li> </ul>	6 7 8 9 10 11 12 13 14 15	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did that yesterday. Don't guess. If you know, you know.  A. Hundred pounds.  MS. SKIPPER:  Q. Did you ever see any pictures or logos on the brown bag with red writing?  A. I don't remember.
<ul> <li>A. Jeff.</li> <li>Q. Jerry Pittman?</li> <li>A. Jeff.</li> <li>Q. Jeff. Sorry. And is there another son?</li> <li>A. No. Just one, Jeff.</li> <li>Q. Okay. Where is Jeff today? Is he still in Laurel?</li> <li>A. I have no idea.</li> <li>Q. Okay. You talked about some brown sand bags with red writing at Pittman; is that correct?</li> </ul>	6 7 8 9 10 11 12 13 14 15 16	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did that yesterday. Don't guess. If you know, you know.  A. Hundred pounds.  MS. SKIPPER:  Q. Did you ever see any pictures or logos on the brown bag with red writing?  A. I don't remember.  Q. Did you ever see an MSDS sheet
<ul> <li>A. Jeff.</li> <li>Q. Jerry Pittman?</li> <li>A. Jeff.</li> <li>Q. Jeff. Sorry. And is there another son?</li> <li>A. No. Just one, Jeff.</li> <li>Q. Okay. Where is Jeff today? Is he still in Laure!?</li> <li>A. I have no idea.</li> <li>Q. Okay. You talked about some brown sand bags with red writing at Pittman; is that correct?</li> <li>A. Yes, ma'am.</li> </ul>	6 7 8 9 10 11 12 13 14 15 16 17	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did that yesterday. Don't guess. If you know, you know.  A. Hundred pounds.  MS. SKIPPER:  Q. Did you ever see any pictures or logos on the brown bag with red writing?  A. I don't remember.  Q. Did you ever see an MSDS sheet associated with the brown bag with red writing at
<ul> <li>A. Jeff.</li> <li>Q. Jerry Pittman?</li> <li>A. Jeff.</li> <li>Q. Jeff. Sorry. And is there another son?</li> <li>A. No. Just one, Jeff.</li> <li>Q. Okay. Where is Jeff today? Is he still in Laurel?</li> <li>A. I have no idea.</li> <li>Q. Okay. You talked about some brown sand bags with red writing at Pittman; is that correct?</li> <li>A. Yes, ma'am.</li> <li>Q. Okay. Can you tell me who the miner or</li> </ul>	6 7 8 9 10 11 12 13 14 15 16 17 18	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did that yesterday. Don't guess. If you know, you know.  A. Hundred pounds.  MS. SKIPPER:  Q. Did you ever see any pictures or logos on the brown bag with red writing?  A. I don't remember.  Q. Did you ever see an MSDS sheet associated with the brown bag with red writing at Pittman?
<ul> <li>A. Jeff.</li> <li>Q. Jerry Pittman?</li> <li>A. Jeff.</li> <li>Q. Jeff. Sorry. And is there another son?</li> <li>A. No. Just one, Jeff.</li> <li>Q. Okay. Where is Jeff today? Is he still in Laurel?</li> <li>A. I have no idea.</li> <li>Q. Okay. You talked about some brown sand bags with red writing at Pittman; is that correct?</li> <li>A. Yes, ma'am.</li> <li>Q. Okay. Can you tell me who the miner or manufacturer of that — those sand bags were?</li> </ul>	6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did that yesterday. Don't guess. If you know, you know.  A. Hundred pounds.  MS. SKIPPER:  Q. Did you ever see any pictures or logos on the brown bag with red writing?  A. I don't remember.  Q. Did you ever see an MSDS sheet associated with the brown bag with red writing at Pittman?  A. No.
<ul> <li>A. Jeff.</li> <li>Q. Jerry Pittman?</li> <li>A. Jeff.</li> <li>Q. Jeff. Sorry. And is there another son?</li> <li>A. No. Just one, Jeff.</li> <li>Q. Okay. Where is Jeff today? Is he still in Laurel?</li> <li>A. I have no idea.</li> <li>Q. Okay. You talked about some brown sand bags with red writing at Pittman; is that correct?</li> <li>A. Yes, ma'am.</li> <li>Q. Okay. Can you tell me who the miner or manufacturer of that — those sand bags were?</li> <li>A. No. I'm not for sure.</li> </ul>	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did that yesterday. Don't guess. If you know, you know.  A. Hundred pounds.  MS. SKIPPER:  Q. Did you ever see any pictures or logos on the brown bag with red writing?  A. I don't remember.  Q. Did you ever see an MSDS sheet associated with the brown bag with red writing at Pittman?  A. No.  Q. How were the brown bags with red
A. Jeff. Q. Jerry Pittman? A. Jeff. Q. Jeff. Sorry. And is there another son? A. No. Just one, Jeff. Q. Okay. Where is Jeff today? Is he still in Laurel? A. I have no idea. Q. Okay. You talked about some brown sand bags with red writing at Pittman; is that correct? A. Yes, ma'am. Q. Okay. Can you tell me who the miner or manufacturer of that — those sand bags were? A. No. I'm not for sure.	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did that yesterday. Don't guess. If you know, you know.  A. Hundred pounds.  MS. SKIPPER:  Q. Did you ever see any pictures or logos on the brown bag with red writing?  A. I don't remember.  Q. Did you ever see an MSDS sheet associated with the brown bag with red writing at Pittman?  A. No.  Q. How were the brown bags with red writing delivered? Did they come on like a
A. Jeff. Q. Jerry Pittman? A. Jeff. Q. Jeff. Sorry. And is there another son? A. No. Just one, Jeff. Q. Okay. Where is Jeff today? Is he still in Laurel? A. I have no idea. Q. Okay. You talked about some brown sand bags with red writing at Pittman; is that correct? A. Yes, ma'am. Q. Okay. Can you tell me who the miner or manufacturer of that — those sand bags were? A. No. I'm not for sure. Q. Did you ever see any warnings on the	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did that yesterday. Don't guess. If you know, you know.  A. Hundred pounds.  MS. SKIPPER:  Q. Did you ever see any pictures or logos on the brown bag with red writing?  A. I don't remember.  Q. Did you ever see an MSDS sheet associated with the brown bag with red writing at Pittman?  A. No.  Q. How were the brown bags with red writing delivered? Did they come on like a pallet?
A. Jeff. Q. Jerry Pittman? A. Jeff. Q. Jeff. Sorry. And is there another son? A. No. Just one, Jeff. Q. Okay. Where is Jeff today? Is he still in Laurel? A. I have no idea. Q. Okay. You talked about some brown sand bags with red writing at Pittman; is that correct? A. Yes, ma'am. Q. Okay. Can you tell me who the miner or manufacturer of that — those sand bags were? A. No. I'm not for sure. Q. Did you ever see any warnings on the sand bags at Pittman?	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. Okay. Can you tell me how many pounds that brown bag with red writing was?  MR. FOXWORTH:  Objection. Asked and answered. We did that yesterday. Don't guess. If you know, you know.  A. Hundred pounds.  MS. SKIPPER:  Q. Did you ever see any pictures or logos on the brown bag with red writing?  A. I don't remember.  Q. Did you ever see an MSDS sheet associated with the brown bag with red writing at Pittman?  A. No.  Q. How were the brown bags with red writing delivered? Did they come on like a
	Q. Did you ever pick up sand at Laurel Machine? A. I'm not for sure. Q. Okay. So you wouldn't be able to testify that any of the sand that you used at Pittman actually came from Laurel Machine? A. I don't know. Q. Who did you talk to when you went in to get the angle steel from Laurel Machine? Was there anybody you went in to talk to? A. Well, all I was just — the other — I was just a passenger, you know — Q. Okay. A. — other side. Q. Who would go in and talk to the people at Laurel Machine? A. Either Tom had called and told them, you know, or either he already done ordered it. Q. Okay. A. And the guy usually go in there and say he picking up something for Tom Pittman. Q. Okay. Who is that person that actually walked in to Laurel Machine and told them that Tom had an order? A. That he had an order?  Page 14  Q. That Tom had an order. Who would actually go get the steel and bring it back to Pittman's? A. A couple of times I went with his sons.	Q. Did you ever pick up sand at Laurel Machine?  A. I'm not for sure. Q. Okay. So you wouldn't be able to testify that any of the sand that you used at Pittman actually came from Laurel Machine? A. I don't know. Q. Who did you talk to when you went in to get the angle steel from Laurel Machine? Was there anybody you went in to talk to? A. Well, all I was just the other I was just a passenger, you know Q. Okay. A other side. Q. Who would go in and talk to the people at Laurel Machine? A. Either Tom had called and told them, you know, or either he already done ordered it. Q. Okay. A. And the guy usually go in there and say he picking up something for Tom Pittman. Q. Okay. Who is that person that actually walked in to Laurel Machine and told them that Tom had an order? A. That he had an order?  Page 14  Q. That Tom had an order. Who would actually go get the steel and bring it back to Pittman's?  3

	Dec. 1	.T	
1	Page 17 A. No.		Page 19
2	Q. The and I'm still on Pittman. The	1 2	A. One.
3	pot that you described, can you tell me who	3	<ul><li>Q. Did you ever see any logos on the pot?</li><li>A. No, ma'am.</li></ul>
4	manufactured that pot?	4	Q. Where did the sand hose connect to the
5	A. I don't remember.	5	pot?
6	Q. Do you know who supplied the pot at	6	A. Off from the side of it.
7	Pittman?	7	Q. When you say the side, are we talking
8	A. No, ma'am.	8	about towards the top, the middle or the bottom?
9	Q. You talked about a valley in the top of	9	A. Halfway.
10		10	Q. Okay. Where did the air hose connect
11		11	to the pot?
12		12	A. Halfway up with it.
13	MR. FOXWORTH:	13	Q. On the side?
14	You want him to describe the term	14	A. Yeah, same place.
15	valley?	15	Q. Okay. So the air hose and the sand
16	MS. SKIPPER:	16	hose were right together?
17	Uh-huh.	17	A. Yes, ma'am.
18	MR. FOXWORTH:	18	Q. Okay. Did you ever see any plates on
19	Do you understand what she's asking	19	this pot, like a metal plate or a tag?
20	you?	20	A. A plate?
21	THE WITNESS:	21	Q. Uh-huh. Do you know what I mean by
22	Yeah, I understand.	22	plate?
23	A. Well, it's a - it's shaped just like	23	A. Yeah, I understand.
24	if you want something to come out, it's - it's	24	Q. Okay.
25	going it don't have no choice but but to go	25	A. The only plate I seen was the plate
	Page 18		Page 20
1	out.	1	that was on the legs.
2	MS. SKIPPER:	2	Q. Okay. Was was there ever a warning
3	Q. Was there like a funnel that stuck up	3	on this pot?
4	and then it went down, or did it kind of just	4	A. I don't remember that.
5	A. Yeah, something like that.	5	Q. And I'm going to ask you the same
6	Q slope down?	6	question. In working with the pots and equipment
7	A. Just like a slope down.	7	that you used while around sandblasting or doing
8	Q. Okay. Okay. You said that this pot	8	sandblasting, did you ever stop to read the
9	didn't have any wheels. Did it have any legs?	9	warnings on that equipment?
10	A. Yeah. That one had legs at Tom	10	A. I don't remember that.
11	Pittman.	11	Q. You don't remember if you read them, or
12	Q. How many legs did it have?	12	you don't remember
13	MR. FOXWORTH:	13	A. I don't
14	And don't guess. If you know, you	14	Q if they were
15 16	know. Don't guess.	15	A remember.
17	A. I'm not for sure how many. MS. SKIPPER:	16	Q. The compressor at Pittman, do you know
18	•	17	who manufactured it? I know you couldn't tell us
19	Q. Do you know how many people could work off this pot?	18	anything about it. But do you know who
20	A. What you mean work off of it?	19 <b>20</b>	manufactured it?
21	Q. How many people could blast off the	21	A. No, ma'am.
22	pot?	22	Q. Do you know who supplied it? A. No, ma'am.
23	A. I'm not for sure how many can.	23	Q. On the pot — sorry to be jumping back
	•		C. On the por - sorry to be Juniping back
24	U. How many people did blast off the not?	1/4	and forth - how many times did you setill it i- a
24 25	Q. How many people did blast off the pot?  Just one?	24 25	and forth — how many times did you refill it in a day at Pittman?

1 A. A bunch of times. 2 Q. What's a bunch of times? 3 MR. FOXWORTH: 4 Don't guess. If you can't give a good 5 honest answer, don't guess. 6 MS. SKIPPER: 7 Q. If you could estimate for me? 8 MR. FOXWORTH: 9 Which is her fancy way of saying guess. 10 So don't guess. 11 A. A lot of it was old concrete. 2 Q. Did you ever tear out concrete just been laid by somebody from Pittrn yourself or your crew? 5 A. A couple of times. 6 Q. Can you tell me who manufac mined any of the ingredients that were concrete, the concrete that was not set or his crew? 10 A. So what you're saying is whodid it come from or— 11 did it come from or— 12 Q. Uh-huh. 13 MR. FOXWORTH: 14 Right. 15 MS. SKIPPER: 16 Q. Okay. Do you think you refilled it 16 Q. Uh-huh. 17 MS. SKIPPER: 18 MS. SKIPPER: 19 Okay. Do you think you refilled it 10 Okay. Do you think you refilled it	nan or tured or in the old
Q. What's a bunch of times?  MR. FOXWORTH:  Don't guess. If you can't give a good honest answer, don't guess.  MS. SKIPPER:  Q. If you could estimate for me?  MR. FOXWORTH:  Which is her fancy way of saying guess.  MS. SKIPPER:  MR. FOXWORTH:  Which is her fancy way of saying guess.  MS. SKIPPER:  MR. FOXWORTH:	nan or tured or in the old
3 MR. FOXWORTH: 4 Don't guess. If you can't give a good 5 honest answer, don't guess. 6 MS. SKIPPER: 7 Q. If you could estimate for me? 8 MR. FOXWORTH: 9 Which is her fancy way of saying guess. 10 So don't guess. 11 A. I wouldn't know for sure. 12 MS. SKIPPER: 13 Q. Do you think you refilled it more than 14 twice in an average day? 15 A. Yes, ma'am. 16 Q. O'lsoy. Do you think give a good 3 just been laid by somebody from Pittra yourself or your crew? 4 yourself or your crew? 5 A. A couple of times. 6 Q. Can you tell me who manufac mined any of the ingredients that were concrete, the concrete that was not set or his crew? 10 A. So what you're saying is who-did it come from or 12 Q. Uh-huh. 13 MR. FOXWORTH: 14 Right. 15 MS. SKIPPER:	nan or tured or in the old
4 Don't guess. If you can't give a good 5 honest answer, don't guess. 6 MS. SKIPPER: 7 Q. If you could estimate for me? 8 MR. FOXWORTH: 9 Which is her fancy way of saying guess. 10 So don't guess. 11 A. I wouldn't know for sure. 12 MS. SKIPPER: 13 Q. Do you think you refilled it more than 14 twice in an average day? 15 A. Yes, ma'am. 16 O. Olsey. Powershird a good 4 yourself or your crew? 5 A. A couple of times. 6 Q. Can you tell me who manufac mined any of the ingredients that were concrete, the concrete that was not set or his crew? 10 A. So what you're saying is who-did it come from or 12 Q. Uh-huh. 13 MR. FOXWORTH: 14 Right. 15 MS. SKIPPER:	tured or in the old
5 honest answer, don't guess. 6 MS. SKIPPER: 7 Q. If you could estimate for me? 8 MR. FOXWORTH: 9 Which is her fancy way of saying guess. 10 So don't guess. 11 A. I wouldn't know for sure. 12 MS. SKIPPER: 13 Q. Do you think you refilled it more than 14 twice in an average day? 15 A. Yes, ma'am. 16 Q. Can you tell me who manufac 7 mined any of the ingredients that were concrete, the concrete that was not set 9 or his crew? 10 A. So what you're saying is who- 11 did it come from or 12 Q. Uh-huh. 13 MR. FOXWORTH: 14 Right. 15 MS. SKIPPER:	in the old
6 MS. SKIPPER: 7 Q. If you could estimate for me? 8 MR. FOXWORTH: 9 Which is her fancy way of saying guess. 10 So don't guess. 11 A. I wouldn't know for sure. 12 MS. SKIPPER: 13 Q. Do you think you refilled it more than 14 twice in an average day? 15 A. Yes, ma'am. 16 Q. Can you tell me who manufac 7 mined any of the ingredients that were 8 concrete, the concrete that was not set 9 or his crew? 10 A. So what you're saying is who- 11 did it come from or 12 Q. Uh-huh. 13 MR. FOXWORTH: 14 Right. 15 MS. SKIPPER:	in the old
8 MR. FOXWORTH: 9 Which is her fancy way of saying guess. 10 So don't guess. 11 A. I wouldn't know for sure. 12 MS. SKIPPER: 13 Q. Do you think you refilled it more than 14 twice in an average day? 15 A. Yes, ma'am. 16 O Okay Do you think you of saying guess. 17 mined any of the ingredients that were concrete, the concrete that was not set or his crew? 10 A. So what you're saying is who-did it come from or 12 Q. Uh-huh. 13 MR. FOXWORTH: 14 Right. 15 MS. SKIPPER:	in the old
8 MR. FOXWORTH: 9 Which is her fancy way of saying guess. 10 So don't guess. 11 A. I wouldn't know for sure. 12 MS. SKIPPER: 13 Q. Do you think you refilled it more than 14 twice in an average day? 15 A. Yes, ma'am. 16 Q. Oksy. Do you think gueses. 18 concrete, the concrete that was not set 9 or his crew? 10 A. So what you're saying is who - 11 did it come from or 12 Q. Uh-huh. 13 MR. FOXWORTH: 14 Right. 15 MS. SKIPPER:	in the old
9 Which is her fancy way of saying guess. 10 So don't guess. 11 A. I wouldn't know for sure. 12 MS. SKIPPER: 13 Q. Do you think you refilled it more than 14 twice in an average day? 15 A. Yes, ma'am. 16 Q. Oksy. Do you think you of saying guess. 19 or his crew? 10 A. So what you're saying is who- 11 did it come from or 12 Q. Uh-huh. 13 MR. FOXWORTH: 14 Right. 15 MS. SKIPPER:	
10 So don't guess. 11 A. I wouldn't know for sure. 12 MS. SKIPPER: 13 Q. Do you think you refilled it more than 14 twice in an average day? 15 A. Yes, ma'am. 16 Q. Olsov. Do you think you for sure. 17 did it come from or	by Pittmai
11 A. I wouldn't know for sure. 12 MS. SKIPPER: 13 Q. Do you think you refilled it more than 14 twice in an average day? 15 A. Yes, ma'am. 16 Q. Okwy, Do you think you refilled it more than 16 MS. SKIPPER: 17 did it come from or	****
12 MS. SKIPPER: 13 Q. Do you think you refilled it more than 14 twice in an average day? 15 A. Yes, ma'am. 16 Q. Okwy Do you think you refilled it more than 17 MR. FOXWORTH: 18 Right. 19 MS. SKIPPER:	- where
13 Q. Do you think you refilled it more than 14 twice in an average day? 15 A. Yes, ma'am. 16 Q. Okwy Powershirk and Citation (Citation and Citation	
14 twice in an average day? 15 A. Yes, ma'am. 16 O. Okay, Down shirt St. 15 MS. SKIPPER:	
15 A. Yes, ma'am. 15 MS. SKIPPER:	
116 () Okray Da van ditut	
1 10 () () () () ()	
17 more than four times in an average day?  18 A. That's guessing now  19 A. Pine Belt. Pine Belt Ready Mi	х.
18 Q. When you say Pine Belt, is tha	for the
20 contract by the second of t	-
21 that is 140. A. On, I don't know.	
22 MP FOYMODER.	ttman?
144 A. Ul. I don't know for sure when	e it come
24 Chamalan I i i i i jou to guoss face. 25 from.	
25 being William and 24 Q. Okay. Okay. Now, the new co	ncrete
23 height. But then she went to law school because 25 that was set by Pittman or his crew or y	our crew,
Page 22	Page 24
1 she's a good guesser. 1 where did that concrete come from?	
A. I'm not for sure. 2 MR FOXWORTH	
3 MS. SKIPPER: 3 Asked and answered. He just said v	here
4 he thought it came from Maybe he was so	nfused on
5 retinant, do you know who the manufacturer was? 5 your other question.	
7 O Daniel Company	
Q. Do you think that that came from P	ine
0 from Dhilling Duilding G. 10	
10 A 57 - +	
11 Q. You talked about a metal nose clip on 12 this dust work. Page 10 Page 11 I'm just trying to clarify everything. Did yo	
this dust mask. Do you know how long that metal 12 ever go to Pine Belt to pick up the concrete.	u ,
13 nosepiece was?	
14 A. No. 14 O. And we talked about you using a	
15 Q. Did it go to the end of the mask? 15 jackhammer. How often in a week would we	פ אפון נוני
10 A. No.   16 jackhammer at Pittman?	uso a
17 Q. Did it stop just where your nose was? 17 MR. FOXWORTH:	į
18 A. No. It go farther than your nose. 18 If you don't know, you don't know.	
19 Q. The concrete work that you did at 19 A. I'm not for sure	
20 Pittman, you said you did some tearing out of 20 MS. SKIPPER:	į
22 A Van malant	j
22 A. No, ma am.	
24 comments that Pour bore only was it 25 Q. Then in a month, did you only	
25 this ald a world Sign of times?	
25 A. Quite a few times.	1

1	Page Q. Okay. Is that more than two?		Page
2	C To make think (MO:		A. When they tell you it's okay to go.
3			Q. Okay. 3 A. We had
4		4	The state of the s
5	day today because I know how it works. You're	5	2. I mount, was that the you do that
6	going to play the guessing game all day. We'll be	6	Bannery as a contain anno:
7	here all day. Let's not do that. I know you're	7	
8	trying to limit exposure. We all know what you're	8 8	a difference of the state of like
9	doing. Just try to find a different way to do it.	9	Barren and depots going to end. There
10	You'll pull the measuring tape out in a few	10	
11	minutes. We're not doing all that today. Okay?	11	
12	MS. SKIPPER:	12	with the control of the cont
13	Q. Do you know what quite a few is? Can	13	<u> </u>
14	you tell me a number?	14	- 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1
15	MR. FOXWORTH:	15	Q. Did you ever work 24 hours?
16	If you know a number that means quite a	16	C The second of the second of
17	few in your mind, tell her. If not - if you	17	
18	don't know, you don't know.	18	A. Several.
19	A. I don't know.	19	Q. Okay. Is that two?
20	MS. SKIPPER:	20	
21	Q. The step sandblasting that you did	21	Q. Okay. What were you doing during those
22	while you were at Pittman, how long in total did	22	24 hours?
23	that take? And that's both your sandblasting and	23	MR. FOXWORTH:
24 25	while you were filling and tending the pot. How	24	
2.3	long did the sandblasting of those steps take in	25	A. Finishing concrete.
	Page 26		Page 2
1	total?	1	MR. FOXWORTH:
2	MR. FOXWORTH:	2	
3			Asked and answered. He said it.
	And don't guess. If you don't know the	3	Asked and answered. He said it. MS. SKIPPER:
4	answer, it's okay to tell her you don't know.	4	MS. SKIPPER:
5	answer, it's okay to tell her you don't know. Just don't guess.	4 5	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that
5 6	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure.	4 5 6	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH:
5 6 7	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER:	4 5 6 7	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH: She has no idea what you're talking
5 6 7 8	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day?	4 5 6 7 8	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH: She has no idea what you're talking about as far as finishing concrete. She's never
5 6 7 8 9	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes.	4 5 6 7 8 9	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that  MR. FOXWORTH:  She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have
5 6 7 8 9	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week?	4 5 6 7 8 9	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that  MR. FOXWORTH:  She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her.
5 7 8 9 10	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week? MR. FOXWORTH:	4 5 6 7 8 9 10	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH:  She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her.  A. Concrete, once they pour it, you got to
5 6 7 8 9 10 11	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week? MR. FOXWORTH: He didn't say that. Are you asking if	4 5 6 7 8 9 10 11 12	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH:  She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her.  A. Concrete, once they pour it, you got to stay there until it's finished.
5 6 7 8 9 10 11 12	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week? MR. FOXWORTH: He didn't say that. Are you asking if it took a week?	4 5 6 7 8 9 10 11 12 13	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH: She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her.  A. Concrete, once they pour it, you got to stay there until it's finished. MS. SKIPPER:
5 6 7 8 9 10 11 12 13	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week? MR. FOXWORTH: He didn't say that. Are you asking if it took a week? MS. SKIPPER:	4 5 6 7 8 9 10 11 12 13 14	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH: She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her.  A. Concrete, once they pour it, you got to stay there until it's finished.  MS. SKIPPER: Q. Okay.
5 6 7 8 9 10 11 12 13 14 15	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week? MR. FOXWORTH: He didn't say that. Are you asking if it took a week?	4 5 6 7 8 9 10 11 12 13 14 15	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH:  She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her.  A. Concrete, once they pour it, you got to stay there until it's finished.  MS. SKIPPER:  Q. Okay.  A. Until it's ready to walk on. So you
5 6 7 8 9 10 11 11 12 13 14 15 16	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week? MR. FOXWORTH: He didn't say that. Are you asking if it took a week? MS. SKIPPER: I'm asking him. MR. FOXWORTH:	4 5 6 7 8 9 10 11 12 13 14 15 16	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH:  She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her.  A. Concrete, once they pour it, you got to stay there until it's finished.  MS. SKIPPER:  Q. Okay.  A. Until it's ready to walk on. So you cannot leave until it's finished.
5 6 7 8 9 10 11 11 12 13 14 15 16 17 18	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week? MR. FOXWORTH: He didn't say that. Are you asking if it took a week? MS. SKIPPER: I'm asking him. MR. FOXWORTH: Do you recall if it took a week? THE WITNESS:	4 5 6 7 8 9 10 11 12 13 14 15 16 17	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH: She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her.  A. Concrete, once they pour it, you got to stay there until it's finished.  MS. SKIPPER: Q. Okay. A. Until it's ready to walk on. So you cannot leave until it's finished. Q. Okay. So
5 6 7 8 9 10 11 11 12 13 14 15 16 7 8 9	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week? MR. FOXWORTH: He didn't say that. Are you asking if it took a week? MS. SKIPPER: I'm asking him. MR. FOXWORTH: Do you recall if it took a week? THE WITNESS: No.	4 5 6 7 8 9 10 11 12 13 14 15 16	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH: She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her.  A. Concrete, once they pour it, you got to stay there until it's finished.  MS. SKIPPER: Q. Okay. A. Until it's ready to walk on. So you cannot leave until it's finished. Q. Okay. So A. If it's
5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week? MR. FOXWORTH: He didn't say that. Are you asking if it took a week? MS. SKIPPER: I'm asking him. MR. FOXWORTH: Do you recall if it took a week? THE WITNESS: No. MS. SKIPPER:	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH: She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her. A. Concrete, once they pour it, you got to stay there until it's finished. MS. SKIPPER: Q. Okay. A. Until it's ready to walk on. So you cannot leave until it's finished. Q. Okay. So A. If it's Q until it set up?
5 6 7 8 9 10 11 11 12 13 14 15 16 7 8 9 9 10	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week? MR. FOXWORTH: He didn't say that. Are you asking if it took a week? MS. SKIPPER: I'm asking him. MR. FOXWORTH: Do you recall if it took a week? THE WITNESS: No. MS. SKIPPER: Q. At Daniel Construction, what time did	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH: She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her. A. Concrete, once they pour it, you got to stay there until it's finished. MS. SKIPPER: Q. Okay. A. Until it's ready to walk on. So you cannot leave until it's finished. Q. Okay. So A. If it's Q until it set up? A. Yeah. Right.
5 6 7 8 9 10 11 11 12 13 14 15 16 17 18 19 20 21 22 22 22 22 23 24 24 25 26 26 27 27 27 27 27 27 27 27 27 27 27 27 27	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week? MR. FOXWORTH: He didn't say that. Are you asking if it took a week? MS. SKIPPER: I'm asking him. MR. FOXWORTH: Do you recall if it took a week? THE WITNESS: No. MS. SKIPPER: Q. At Daniel Construction, what time did you get off work?	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH: She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her. A. Concrete, once they pour it, you got to stay there until it's finished. MS. SKIPPER: Q. Okay. A. Until it's ready to walk on. So you cannot leave until it's finished. Q. Okay. So A. If it's Q until it set up? A. Yeah. Right. Q. Okay. Did you have any breaks when you
5 6 7 8 9 10 11 11 12 13 14 15 16 17 18 19 20 21 22 23	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week? MR. FOXWORTH: He didn't say that. Are you asking if it took a week? MS. SKIPPER: I'm asking him. MR. FOXWORTH: Do you recall if it took a week? THE WITNESS: No. MS. SKIPPER: Q. At Daniel Construction, what time did you get off work? A. We never did have a certain hour. I	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH: She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her. A. Concrete, once they pour it, you got to stay there until it's finished. MS. SKIPPER: Q. Okay. A. Until it's ready to walk on. So you cannot leave until it's finished. Q. Okay. So A. If it's Q until it set up? A. Yeah. Right.
5 6 7 8	answer, it's okay to tell her you don't know. Just don't guess. A. I'm not for sure. MS. SKIPPER: Q. Did it take longer than a day? A. Yes. Q. But it didn't take a week? MR. FOXWORTH: He didn't say that. Are you asking if it took a week? MS. SKIPPER: I'm asking him. MR. FOXWORTH: Do you recall if it took a week? THE WITNESS: No. MS. SKIPPER: Q. At Daniel Construction, what time did you get off work?	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	MS. SKIPPER:  Q. Okay. Tell me finishing concrete, is that MR. FOXWORTH: She has no idea what you're talking about as far as finishing concrete. She's never even been to a job site. So you're going to have to explain it to her. A. Concrete, once they pour it, you got to stay there until it's finished. MS. SKIPPER: Q. Okay. A. Until it's ready to walk on. So you cannot leave until it's finished. Q. Okay. So A. If it's Q until it set up? A. Yeah. Right. Q. Okay. Did you have any breaks when you worked at Daniel Construction?

Г			
	Page	29	Page 31
1	2	1	of and we talked about some of it, did you ever
2	8	2	know who the manufacturer of that pot was?
3	· · · · · · · · · · · · · · · · · · ·	3	
4	4. Simj. The dest mast that you described	4	2. Along Journal about Walker Jolles was
5	at Daniel and right now I'm just going to talk	5	where Gordon Myrick got the pot. Did they buy it
6	about Daniel until we switch do you know who	1	from Walker Jones, or did they rent it?
7	manufactured that dust mask?	7	A. They rent it.
8	MR. FOXWORTH:	8	
9	While he's thinking, what let's kind	9	I saw legs in the picture. We didn't talk about
10	of get a range of questions. What do you think	10	them. Were there legs?
11	you have, an hour? (Question directed to other	[1]	A. Had four legs.
12	counsel in the room.)	12	Q. Okay. Were there any logos on the pot?
13	A. I don't know.	13	A. I don't remember.
14	MS. SKIPPER:	14	Q. Were there any pictures on the pot?
15	Q. You don't know?	15	A. I don't know.
16	A. I don't know.	16	Q. The air compressor that we talked
17	Q. Do you know who supplied the dust mask	?   17	about, do you know who manufactured the air
18	Where they got it from?	18	compressor?
19	A. I don't know.	19	A. No.
20	Q. Okay. We talked about sand was brought	20	Q. Do you know who supplied the air
21	in by a front loader. Do you know where the sand	21	compressor?
22	came from?	22	A. Walker Jones.
23	A. No.	23	Q. Did the air compressor have any tanks
24	<ul> <li>Q. Do you know who mined or manufactured</li> </ul>	24	on it?
25	the sand?	25	A. I'm not for sure.
	Page 3		Page 32
1	Page 3 A. No.	1.	Page 32
1 2	A. No.	1	Q. The sand that you described, do you
	A. No.	1.	Q. The sand that you described, do you know who the miner or manufacturer of the sand
2	<ul><li>A. No.</li><li>Q. Can you tell me who supplied the</li></ul>	1 2	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?
2	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction?	1 2 3	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am.
2 3 4	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay.	1 2 3 4	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am.  Q. When sand was purchased from Walker
2 3 4 5	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay.	1 2 3 4 5	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am.  Q. When sand was purchased from Walker Jones, how many bags were purchased at a time?
2 3 4 5 6	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or	1 2 3 4 5 6 7 8	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time?  A. I'm not for sure how many.
2 3 4 5 6 7 8 9	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or	1 2 3 4 5 6 7 8	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for
2 3 4 5 6 7 8 9	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER:	1 2 3 4 5 6 7 8	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time?  A. I'm not for sure how many.
2 3 4 5 6 7 8 9 10	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went in to making their own concrete? A. No.	1 2 3 4 5 6 7 8 9	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch.
2 3 4 5 6 7 8 9 10 11 12	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went in to making their own concrete? A. No. Q. At Gordon Myrick, we're now on that.	1 2 3 4 5 6 7 8 9	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch. Q. I don't really know in your mind what a
2 3 4 5 6 7 8 9 10 11 12 13	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went in to making their own concrete? A. No. Q. At Gordon Myrick, we're now on that. So all my questions relate to that. Did you have	1 2 3 4 5 6 7 8 9 10	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch.
2 3 4 5 6 7 8 9 10 11 12 13	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went in to making their own concrete? A. No. Q. At Gordon Myrick, we're now on that. So all my questions relate to that. Did you have a shift or a certain work schedule?	1 2 3 4 5 6 7 8 9 10 11 12	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch. Q. I don't really know in your mind what a bunch is. Can you help me figure out what a bunch
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went in to making their own concrete? A. No. Q. At Gordon Myrick, we're now on that. So all my questions relate to that. Did you have a shift or a certain work schedule? A. 7:00 to 5:00.	1 2 3 4 5 6 7 8 9 10 11 12 13	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch. Q. I don't really know in your mind what a bunch is. Can you help me figure out what a bunch is?  MR. FOXWORTH:
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went in to making their own concrete? A. No. Q. At Gordon Myrick, we're now on that. So all my questions relate to that. Did you have a shift or a certain work schedule? A. 7:00 to 5:00. Q. Do you have any breaks?	1 2 3 4 5 6 7 8 9 10 11 12 13 14	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch. Q. I don't really know in your mind what a bunch is. Can you help me figure out what a bunch is?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went into making their own concrete? A. No. Q. At Gordon Myrick, we're now on that. So all my questions relate to that. Did you have a shift or a certain work schedule? A. 7:00 to 5:00. Q. Do you have any breaks? A. Yes.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch. Q. I don't really know in your mind what a bunch is. Can you help me figure out what a bunch is?  MR. FOXWORTH: Don't guess. If you know, you know.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went in to making their own concrete? A. No. Q. At Gordon Myrick, we're now on that. So all my questions relate to that. Did you have a shift or a certain work schedule? A. 7:00 to 5:00. Q. Do you have any breaks? A. Yes. Q. How many breaks did you have?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch. Q. I don't really know in your mind what a bunch is?  MR. FOXWORTH:  Don't guess. If you know, you know. A. I'm not for sure.  MS. SKIPPER:
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went in to making their own concrete? A. No. Q. At Gordon Myrick, we're now on that. So all my questions relate to that. Did you have a shift or a certain work schedule? A. 7:00 to 5:00. Q. Do you have any breaks? A. Yes. Q. How many breaks did you have? A. Four.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch. Q. I don't really know in your mind what a bunch is. Can you help me figure out what a bunch is?  MR. FOXWORTH:  Don't guess. If you know, you know. A. I'm not for sure.  MS. SKIPPER: Q. Is there any way you could estimate for
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went in to making their own concrete? A. No. Q. At Gordon Myrick, we're now on that. So all my questions relate to that. Did you have a shift or a certain work schedule? A. 7:00 to 5:00. Q. Do you have any breaks? A. Yes. Q. How many breaks did you have? A. Four. Q. How long were those breaks?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch. Q. I don't really know in your mind what a bunch is. Can you help me figure out what a bunch is?  MR. FOXWORTH: Don't guess. If you know, you know. A. I'm not for sure.  MS. SKIPPER: Q. Is there any way you could estimate for me or give me a range, if it's between, you know,
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went in to making their own concrete? A. No. Q. At Gordon Myrick, we're now on that. So all my questions relate to that. Did you have a shift or a certain work schedule? A. 7:00 to 5:00. Q. Do you have any breaks? A. Yes. Q. How many breaks did you have? A. Four. Q. How long were those breaks? A. An hour, 15.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch. Q. I don't really know in your mind what a bunch is. Can you help me figure out what a bunch is?  MR. FOXWORTH:  Don't guess. If you know, you know. A. I'm not for sure.  MS. SKIPPER: Q. Is there any way you could estimate for
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went into making their own concrete? A. No. Q. At Gordon Myrick, we're now on that. So all my questions relate to that. Did you have a shift or a certain work schedule? A. 7:00 to 5:00. Q. Do you have any breaks? A. Yes. Q. How many breaks did you have? A. Four. Q. How long were those breaks? A. An hour, 15. Q. So you have one hour and then three 15	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch. Q. I don't really know in your mind what a bunch is. Can you help me figure out what a bunch is?  MR. FOXWORTH:  Don't guess. If you know, you know. A. I'm not for sure.  MS. SKIPPER: Q. Is there any way you could estimate for me or give me a range, if it's between, you know, 20 and 30 or 30 and 50 or — something to help me
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went in to making their own concrete? A. No. Q. At Gordon Myrick, we're now on that. So all my questions relate to that. Did you have a shift or a certain work schedule? A. 7:00 to 5:00. Q. Do you have any breaks? A. Yes. Q. How many breaks did you have? A. Four. Q. How long were those breaks? A. An hour, 15. Q. So you have one hour and then three 15 minute breaks?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch. Q. I don't really know in your mind what a bunch is. Can you help me figure out what a bunch is?  MR. FOXWORTH:  Don't guess. If you know, you know. A. I'm not for sure.  MS. SKIPPER: Q. Is there any way you could estimate for me or give me a range, if it's between, you know, 20 and 30 or 30 and 50 or — something to help me out?  MR. FOXWORTH:
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went in to making their own concrete? A. No. Q. At Gordon Myrick, we're now on that. So all my questions relate to that. Did you have a shift or a certain work schedule? A. 7:00 to 5:00. Q. Do you have any breaks? A. Yes. Q. How many breaks did you have? A. Four. Q. How long were those breaks? A. An hour, 15. Q. So you have one hour and then three 15 minute breaks? A. I think so.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch. Q. I don't really know in your mind what a bunch is. Can you help me figure out what a bunch is?  MR. FOXWORTH:  Don't guess. If you know, you know. A. I'm not for sure.  MS. SKIPPER: Q. Is there any way you could estimate for me or give me a range, if it's between, you know, 20 and 30 or 30 and 50 or — something to help me out?  MR. FOXWORTH:  You don't have to guess. If you don't know, you don't know. You don't have to — you
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. No. Q. Can you tell me who supplied the concrete to Daniel Construction? MR. FOXWORTH: What was your question? Okay. A. They did their own concrete. MS. SKIPPER: Q. Do you know who supplied or manufactured any of the ingredients that went in to making their own concrete? A. No. Q. At Gordon Myrick, we're now on that. So all my questions relate to that. Did you have a shift or a certain work schedule? A. 7:00 to 5:00. Q. Do you have any breaks? A. Yes. Q. How many breaks did you have? A. Four. Q. How long were those breaks? A. An hour, 15. Q. So you have one hour and then three 15 minute breaks?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. The sand that you described, do you know who the miner or manufacturer of the sand was?  A. No, ma'am. Q. When sand was purchased from Walker Jones, how many bags were purchased at a time? A. I'm not for sure how many. Q. How many bags of sand did it take for you to finish the project on Mr. Myrick's house? A. A bunch. Q. I don't really know in your mind what a bunch is. Can you help me figure out what a bunch is?  MR. FOXWORTH:  Don't guess. If you know, you know. A. I'm not for sure.  MS. SKIPPER: Q. Is there any way you could estimate for me or give me a range, if it's between, you know, 20 and 30 or 30 and 50 or — something to help me out?  MR. FOXWORTH:

- 1		-	
	Page 3	3	Page 35
,	1 more than what she's saying, you've got to let her	] ]	C - 2 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1
1	2 know. 3 A. I'm not for sure on that	2	2 from that you were tearing up?
1	The fact to star on that.	3	
	4 MS. SKIPPER:	4	C. Marie to John Will Holli:
	Q. Do you know who went and picked up the		A. Jones County.
· [	s sand at Walker Jones?	6	C THE COLD WILL WILL
	A. It was there when I got there.	7	the state of the s
	Q. Okay. So you never went to Walker	8	Jones County?
1	Jones and	9	
10		10	Q. Any more?
1	C But we wo Journal of How Official It	11	,
1.	S Preside up nom wanter soites, or	12	C
1.	y and the same same	13	
14	Tubit,	14	c and a lot of last littles;
1.5	CACUSC TOLLOW OF CACUSC	15	A. Ma'am?
16	The state of the s	16	Q. Are there a lot of last names in Jones
17	· · · · · · · · · · · · · · · · · · ·	17	County that you're related to?
18	The state of the s	18	<b></b>
19	c y and you do he overy day of	19	yyy
20	•	20	half the county? I'm just trying to estimate how
21		21	long this is going to take us.
22	you you	22	MR. FOXWORTH:
23	i jou woo it down inst:	23	Take your time and answer the question.
24	the state of the s	24	If you know the names, say the names. Don't
25	Q. Okay.	25	play don't play the game giving estimates as to
Г	Page 34		Page 36
1	A. We just used that sand once on the	1	how many people in the county you're related to.
2	house. And that was it.	1	
3		2	Don't guess on that. Just give the names
i i	Q. Okay. How long did it take to use that	2 3	Don't guess on that. Just give the names.
4	sand?		Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see.
5	sand?  A. I didn't stay until the until the	3	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see.  Clarks. Simpson. Taylor. Millsap. That's
4 5 6	sand?  A. I didn't stay until the until the job was finished.	3 4	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see.  Clarks. Simpson. Taylor. Millsap. That's enough?
4 5 6 7	sand?  A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?	3 4 5	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see.  Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER:
4 5 6 7 8	sand?  A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.	3 4 5 6	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER: Q. Is that all you can remember?
4 5 6 7 8 9	sand?  A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.  Q. Okay. Did you use a shovel to pick up	3 4 5 6 7	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER: Q. Is that all you can remember? A. That's all I can remember right now.
4 5 6 7 8 9 10	sand?  A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.  Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how	3 4 5 6 7 8	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER:  Q. Is that all you can remember?  A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank?
4 5 6 7 8 9 10 11	sand?  A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.  Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand.	3 4 5 6 7 8 9 10 11	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER:  Q. Is that all you can remember?  A. That's all I can remember right now. Q. Okay. When did you first get put on
4 5 6 7 8 9 10 11 12	A. I didn't stay until the until the job was finished. Q. Does that mean one day, a week? A. I worked two days there. Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand. A. Shovel and a wheelbarrow.	3 4 5 6 7 8 9 10 11 12	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER:  Q. Is that all you can remember?  A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank?  MR. FOXWORTH:  Objection. Asked and answered. We
4 5 6 7 8 9 10 11 12 13	A. I didn't stay until the until the job was finished. Q. Does that mean one day, a week? A. I worked two days there. Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand. A. Shovel and a wheelbarrow. Q. Okay. The dust mask at Gordon Myrick,	3 4 5 6 7 8 9 10 11	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER:  Q. Is that all you can remember?  A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank?
4 5 6 7 8 9 10 11 12 13 14	A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.  Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand.  A. Shovel and a wheelbarrow.  Q. Okay. The dust mask at Gordon Myrick, do you know who manufactured it?	3 4 5 6 7 8 9 10 11 12 13 14	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER:  Q. Is that all you can remember?  A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank?  MR. FOXWORTH:  Objection. Asked and answered. We
4 5 6 7 8 9 10 11 12 13 14 15	A. I didn't stay until the until the job was finished. Q. Does that mean one day, a week? A. I worked two days there. Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand. A. Shovel and a wheelbarrow. Q. Okay. The dust mask at Gordon Myrick, do you know who manufactured it? A. No, ma'am.	3 4 5 6 7 8 9 10 11 12 13 14 15	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER:  Q. Is that all you can remember?  A. That's all I can remember right now.  Q. Okay. When did you first get put on the oxygen tank?  MR. FOXWORTH:  Objection. Asked and answered. We went over that yesterday.  MS. SKIPPER:  I
4 5 6 7 8 9 10 11 12 13 14 15 16	A. I didn't stay until the until the job was finished. Q. Does that mean one day, a week? A. I worked two days there. Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand. A. Shovel and a wheelbarrow. Q. Okay. The dust mask at Gordon Myrick, do you know who manufactured it? A. No, ma'am. Q. Do you know who supplied it?	3 4 5 6 7 8 9 10 11 12 13 14 15 16	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER:  Q. Is that all you can remember?  A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank?  MR. FOXWORTH:  Objection. Asked and answered. We went over that yesterday.  MS. SKIPPER:  I  MR. FOXWORTH:
4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.  Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand.  A. Shovel and a wheelbarrow.  Q. Okay. The dust mask at Gordon Myrick, do you know who manufactured it?  A. No, ma'am.  Q. Do you know who supplied it?  A. When Walker Jones come around, we got a	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough? MS. SKIPPER: Q. Is that all you can remember? A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank? MR. FOXWORTH: Objection. Asked and answered. We went over that yesterday. MS. SKIPPER: I MR. FOXWORTH: Didn't we go over that yesterday, Will?
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.  Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand.  A. Shovel and a wheelbarrow.  Q. Okay. The dust mask at Gordon Myrick, do you know who manufactured it?  A. No, ma'am.  Q. Do you know who supplied it?  A. When Walker Jones come around, we got a supply of it.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER: Q. Is that all you can remember? A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank?  MR. FOXWORTH: Objection. Asked and answered. We went over that yesterday.  MS. SKIPPER: I  MR. FOXWORTH: Didn't we go over that yesterday, Will?  MR. MANUEL:
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.  Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand.  A. Shovel and a wheelbarrow.  Q. Okay. The dust mask at Gordon Myrick, do you know who manufactured it?  A. No, ma'am.  Q. Do you know who supplied it?  A. When Walker Jones come around, we got a supply of it.  Q. Okay. So you believe Walker Jones	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER: Q. Is that all you can remember? A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank?  MR. FOXWORTH: Objection. Asked and answered. We went over that yesterday.  MS. SKIPPER: I  MR. FOXWORTH: Didn't we go over that yesterday, Will?  MR. MANUEL: 1989.
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.  Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand.  A. Shovel and a wheelbarrow.  Q. Okay. The dust mask at Gordon Myrick, do you know who manufactured it?  A. No, ma'am.  Q. Do you know who supplied it?  A. When Walker Jones come around, we got a supply of it.  Q. Okay. So you believe Walker Jones supplied the dust mask	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER: Q. Is that all you can remember? A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank?  MR. FOXWORTH: Objection. Asked and answered. We went over that yesterday.  MS. SKIPPER: I  MR. FOXWORTH: Didn't we go over that yesterday, Will?  MR. MANUEL: 1989.  MR. FOXWORTH:
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.  Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand.  A. Shovel and a wheelbarrow.  Q. Okay. The dust mask at Gordon Myrick, do you know who manufactured it?  A. No, ma'am.  Q. Do you know who supplied it?  A. When Walker Jones come around, we got a supply of it.  Q. Okay. So you believe Walker Jones supplied the dust mask  A. Yes, ma'am.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough? MS. SKIPPER: Q. Is that all you can remember? A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank? MR. FOXWORTH: Objection. Asked and answered. We went over that yesterday. MS. SKIPPER: I MR. FOXWORTH: Didn't we go over that yesterday, Will? MR. MANUEL: 1989. MR. FOXWORTH: Yeah.
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.  Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand.  A. Shovel and a wheelbarrow.  Q. Okay. The dust mask at Gordon Myrick, do you know who manufactured it?  A. No, ma'am.  Q. Do you know who supplied it?  A. When Walker Jones come around, we got a supply of it.  Q. Okay. So you believe Walker Jones supplied the dust mask  A. Yes, ma'am.  Q too? All right. You talked about	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough? MS. SKIPPER: Q. Is that all you can remember? A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank? MR. FOXWORTH: Objection. Asked and answered. We went over that yesterday. MS. SKIPPER: I MR. FOXWORTH: Didn't we go over that yesterday, Will? MR. MANUEL: 1989. MR. FOXWORTH: Yeah. MS. SKIPPER:
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.  Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand.  A. Shovel and a wheelbarrow.  Q. Okay. The dust mask at Gordon Myrick, do you know who manufactured it?  A. No, ma'am.  Q. Do you know who supplied it?  A. When Walker Jones come around, we got a supply of it.  Q. Okay. So you believe Walker Jones supplied the dust mask  A. Yes, ma'am.  Q too? All right. You talked about tearing up concrete in Ellisville while you worked	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER: Q. Is that all you can remember? A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank?  MR. FOXWORTH: Objection. Asked and answered. We went over that yesterday.  MS. SKIPPER: I  MR. FOXWORTH: Didn't we go over that yesterday, Will?  MR. MANUEL: 1989.  MR. FOXWORTH: Yeah.  MS. SKIPPER: I'm sorry. I just missed it.
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.  Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand.  A. Shovel and a wheelbarrow.  Q. Okay. The dust mask at Gordon Myrick, do you know who manufactured it?  A. No, ma'am.  Q. Do you know who supplied it?  A. When Walker Jones come around, we got a supply of it.  Q. Okay. So you believe Walker Jones supplied the dust mask  A. Yes, ma'am.  Q too? All right. You talked about tearing up concrete in Ellisville while you worked for Gordon Myrick?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER:  Q. Is that all you can remember?  A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank?  MR. FOXWORTH:  Objection. Asked and answered. We went over that yesterday.  MS. SKIPPER:  I  MR. FOXWORTH:  Didn't we go over that yesterday, Will?  MR. MANUEL:  1989.  MR. FOXWORTH:  Yeah.  MS. SKIPPER:  I'm sorry. I just missed it.  Q. I don't mean to be asking you the same
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. I didn't stay until the until the job was finished.  Q. Does that mean one day, a week?  A. I worked two days there.  Q. Okay. Did you use a shovel to pick up the sand, or did you I'm just asking you how you cleaned up the sand.  A. Shovel and a wheelbarrow.  Q. Okay. The dust mask at Gordon Myrick, do you know who manufactured it?  A. No, ma'am.  Q. Do you know who supplied it?  A. When Walker Jones come around, we got a supply of it.  Q. Okay. So you believe Walker Jones supplied the dust mask  A. Yes, ma'am.  Q too? All right. You talked about tearing up concrete in Ellisville while you worked	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Don't guess on that. Just give the names.  A. Conners. Phillips. Let's see. Clarks. Simpson. Taylor. Millsap. That's enough?  MS. SKIPPER: Q. Is that all you can remember? A. That's all I can remember right now. Q. Okay. When did you first get put on the oxygen tank?  MR. FOXWORTH: Objection. Asked and answered. We went over that yesterday.  MS. SKIPPER: I  MR. FOXWORTH: Didn't we go over that yesterday, Will?  MR. MANUEL: 1989.  MR. FOXWORTH: Yeah.  MS. SKIPPER: I'm sorry. I just missed it.

Γ			
	Page	37	Page 39
	that you had been to a lot of doctors. And we		1 A. No.
	2 talked about Dr. Neese, Reno, Parkman and you		2 Q. How many
	didn't remember Dr. Harron. Are there any other	r	3 MR. FOXWORTH:
4	doctors that you can remember you've been to?	- 1	
	A. Dr. Morrison.	- 1	That's all asked and answered, by the way.
	Q. Where is Dr. Morrison?		6 MS. SKIPPER:
1.	A. Hattiesburg. John I think it's I		
{ }	don't know,	- 1	Q. How many people were at the screening?  MR. FOXWORTH:
-   9	Q. I want to talk about your silica	1	
10	screening. When you went to the silica screening	<u>,</u> 1	water acces that there arry thing to do with
1	did you fill out any paperwork?	" 1	hand and any arrange to tito!
12	A. Do what now?	12	1
13		1.	in a question.
12	went to your silica screening?	14	
15	A. When I did the screen?	1.5	
16		16	Total Total to the HOW HALL
17	A. Yes.	17	
18	Q. Did you tell them about your work	18	
19	history?	19	
20		20	The real is a state of the state of th
21	Q. Did you tell them anything else in that	21	<u> </u>
22	paperwork besides your work history?	22	
23	A. I'm not for sure.	23	The state of the s
24	Q. Okay. When you went to the first	24	2,224
25	screening, did they do a chest x-ray?	25	c and a court would to be prying, and the
<b> </b>		23	not prying. But have you had any criminal
	Page 38		Page 40
1	A. Yes.	1	convictions?
2	Q. How many x-rays did they take?	2	A. One.
3	A. One.	3	Q. What was that for?
4	Q. Did you go somewhere else and do a	4	A. Assault.
5	breathing test?	5	Q. Can you tell me when that was?
6	A. I'm not for sure.	6	A. No.
7	Q. You don't remember doing a breathing	7	Q. Was it in the last three years?
8	test?	8	A. No.
9	A. I did a bunch of breathing tests, but I	9	Q. I want to show you a picture of a
10	don't remember	10	product. It's Number 304 from the Walter Weathers
11	Q. Okay.	11	book. And I want you to take a look at that
12	A back when I did this.	12	picture.
13	Q. Okay. Where all have you had breathing	13	MR. FOXWORTH:
14	tests?	14	Use your glasses. These are all
15	A. Hattiesburg Clinic.	15	different pictures of different angles, the
16	Q. Is that the only place?	16	same thing.
17	A. Laurel.	17	MS. SKIPPER:
18	Q. Laurel?	18	Q. It's the same product. Just different
19	A. That's it. Laurel.	19	points of view. We've talked about all of the
20	Q. Is there a clinic or a hospital?	20	dust masks and respiratory protection you've used
21	A. South Central.	21	at all these places. However, when we is a state of the second of the se
22	Q. Okay. When you went to go take your	22	at all these places. Have you ever used anything
23	x-ray, did you know anyone at the screening?	23	that looked like that while you were around sandblasting?
24	A. No.	24	A. No, ma'am.
25	Q. Did anyone go with you?	25	Q. Okay. Have you ever used a product

Г		Т	
	Page 4	I	Page 4
1	that looked like that or that product while you were doing any kind of jackhammering or concret		1 Krisi, if you would, let him know who
- 1	were doing any kind of jackhammering or concret work?		2 you represent.
	4 A. No.		3 MS. LEE:
- 1	Q. Pictures. Thank you. I have another	ı i	4 Okay.
- 1	5 picture for you. It's picture Number 783 from the	1	Q. I represent Pine Belt Ready Mix. I
1	Walter Weathers book. We talked about all the	- [	want to ask you first some questions about Tom Pittman, Do you know - is Mr. Pittman in the
8		, ,	To you know - is ivil. I itulian in the
9	or doing sandblasting. I think we talked about	1 6	
10	them being in brown bags with red writing. I wan		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
11	you to look at that picture and tell me if you've	1	to Journal What he's doing now!
12	ever used those bags.	12	
13		13	The state of what he's double, Okay.
14	C Jan De doie to testify octobe a	14	y y or to state and you worked at sites
15	jury under oath that you used a product like this?	15	Bay Springs, State Line and Heidelberg. You
16	A. Testify	16	haven't remembered any other cities where you
17		17	worked for Tom Pittman since yesterday, have you?
18		18	A. Did I have Ellisville on there?
19		19	
20	The same of the sa	20	
21 22		21	C Jou man Emisville at
23		22	The state of the s
24	J	23	
25		24	a manufact got that of this fact
	MACOTI.	25	sheet.
	Page 42		Page 44
1	MS. SKIPPER:	1	MS. LEE:
2	Q. I'm going to show you picture	2	Okay. Okay. I'm just looking off my
3	Number 859 from the Walter Weathers book. I want	3	notes.
5	you to take a look at that and tell me if you've	4	Q. If you would, if you remember and if
6	ever used a pot that was that small.  A. No.	5	you don't remember, that's okay. But if you
7	MS. SKIPPER:	6	remember I'm going to go through each of these
8	Mr. McGilberry, I appreciate your	7	cities. If you can tell me what you were
9	patience and your time. I thank you very much.	8 9	building, I would appreciate it. In Hattiesburg,
10	MR. FOXWORTH:	10	do you remember what site you were working on?  A. We did some work at the the Western
11	The next person is going to ask	11	Auto in Hattiesburg.
12	questions. Do you want to take a break or go to	12	Q. Was that a new construction, or were
13	the restroom before they do that?	13	you doing repair work there?
14	THE WITNESS:	14	A. I think repair.
15	Yeah.	15	Q. Do you remember what you were repairing
16	VIDEO SPECIALIST:	16	at the Western Auto?
17 18	Off the record. The time is 11:10.	17	A. I think it's the roof.
19	(A short break was taken.) VIDEO SPECIALIST:	18	Q. The roof?
20	Back on record. The time is 11:25.	19	A. I think so. I'm not for sure, I
21	EXAMINATION	20	believe it was.
	BY MS. LEE:	21	Q. So were you doing any concrete work at
23	Q. Mr. McGilberry, my name is Krisi Lee.	22 23	the Western Auto in Hattiesburg?
	And I just have a few questions for you.	23 24	A. I don't remember.
25	MR. FOXWORTH:		Q. Okay. And what about in Waynesboro, do you remember where you were working in Waynesboro?
			A working in waynesporo!

i		T	•
	Page 4	5	Page 47
	The state of the s	1	
3	•	2	
4	c = - y	3	
5		4	
6	· · · · · · · · · · · · · · · · · · ·	5	
1 7	C STATE OF THE STA	6	- Silve John Winde
8		7	
9		9	
10	L-L	10	• • • • • • • • • • • • • • • • • • • •
11	the state of the s	11	(
12		12	
13		13	
14		14	
15	A. Yeah. Did a poured concrete in	15	pouring concrete over pipes. You don't recall if
16	Raleigh. All I remember, we was pouring concrete	16	that was for the city or a private organization?
17	over big pipes.	17	A. I believe it was a private
18	Q. Over big pipes?	18	organization.
19	A. Yes, ma'am.	19	
20	Q. Okay. Do you know how long that job	20	A. I'm not for sure. All I know, it was
21	took?	21	some big pipes.
22	A. Quite a while.	22	C To Miles Jok Wold III
23	Q. Like weeks or months?	23	Laurel, do you know where what site you were
24	A. I think it was months. It might have	24	working at in Laurel?
25	been longer.	25	A. Ellisville State School.
	Page 46		
		E	Page 48
1	O. So it was a pretty hig project?		Page 48
1 2	<ul><li>Q. So it was a pretty big project?</li><li>A. Yes, ma'am.</li></ul>	1	Q. Ellisville State School?
1	A. Yes, ma'am.	1 2	Q. Ellisville State School? A. Yes, ma'am.
2	A. Yes, ma'am. MR. FOXWORTH:	1	<ul><li>Q. Ellisville State School?</li><li>A. Yes, ma'am.</li><li>Q. And what were you doing at Ellisville</li></ul>
2 3	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something	1 2 3	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School?
2 3 4 5 6	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:	1 2 3 4	<ul> <li>Q. Ellisville State School?</li> <li>A. Yes, ma'am.</li> <li>Q. And what were you doing at Ellisville</li> <li>State School?</li> <li>A. We poured all the wheelchair ramps.</li> </ul>
2 3 4 5 6 7	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.	1 2 3 4 5	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry?
2 3 4 5 6 7 8	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:	1 2 3 4 5 6	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry?
2 3 4 5 6 7 8 9	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix	1 2 3 4 5 6 7 8 9	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps.
2 3 4 5 6 7 8 9	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:	1 2 3 4 5 6 7 8 9	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or
2 3 4 5 6 7 8 9 10 11	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.	1 2 3 4 5 6 7 8 9 10 11	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones?
2 3 4 5 6 7 8 9 10 11 12	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.  MR. FOXWORTH:	1 2 3 4 5 6 7 8 9 10 11 12	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones? A. We laid new ones.
2 3 4 5 6 7 8 9 10 11 12 13	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.  MR. FOXWORTH:  it shows sand and cement. It should	1 2 3 4 5 6 7 8 9 10 11 12 13	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones? A. We laid new ones. Q. So did you do any tearing up of
2 3 4 5 6 7 8 9 10 11 12 13 14	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.  MR. FOXWORTH:  it shows sand and cement. It should have been sand, cement and concrete. So I want	1 2 3 4 5 6 7 8 9 10 11 12 13 14	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones? A. We laid new ones. Q. So did you do any tearing up of concrete at the Ellisville State School?
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.  MR. FOXWORTH:  it shows sand and cement. It should have been sand, cement and concrete. So I want you to know that on the front end that's a typo on	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones? A. We laid new ones. Q. So did you do any tearing up of concrete at the Ellisville State School? A. Some.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.  MR. FOXWORTH:  it shows sand and cement. It should have been sand, cement and concrete. So I want you to know that on the front end that's a typo on my part.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones? A. We laid new ones. Q. So did you do any tearing up of concrete at the Ellisville State School? A. Some. Q. How long did that job take?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.  MR. FOXWORTH:  it shows sand and cement. It should have been sand, cement and concrete. So I want you to know that on the front end that's a typo on my part.  MS. LEE:	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones? A. We laid new ones. Q. So did you do any tearing up of concrete at the Ellisville State School? A. Some. Q. How long did that job take? A. A while.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.  MR. FOXWORTH:  it shows sand and cement. It should have been sand, cement and concrete. So I want you to know that on the front end that's a typo on my part.  MS. LEE:  Okay.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones? A. We laid new ones. Q. So did you do any tearing up of concrete at the Ellisville State School? A. Some. Q. How long did that job take? A. A while. Q. A few weeks or a few months?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.  MR. FOXWORTH:  it shows sand and cement. It should have been sand, cement and concrete. So I want you to know that on the front end that's a typo on my part.  MS. LEE:  Okay.  MR. FOXWORTH:	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones? A. We laid new ones. Q. So did you do any tearing up of concrete at the Ellisville State School? A. Some. Q. How long did that job take? A. A while. Q. A few weeks or a few months? A. A long time.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.  MR. FOXWORTH:  it shows sand and cement. It should have been sand, cement and concrete. So I want you to know that on the front end that's a typo on my part.  MS. LEE:  Okay.  MR. FOXWORTH:  It's an error on the fact sheet that's	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones? A. We laid new ones. Q. So did you do any tearing up of concrete at the Ellisville State School? A. Some. Q. How long did that job take? A. A while. Q. A few weeks or a few months? A. A long time. Q. Okay. And then in Bay Springs, do you
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.  MR. FOXWORTH:  it shows sand and cement. It should have been sand, cement and concrete. So I want you to know that on the front end that's a typo on my part.  MS. LEE:  Okay.  MR. FOXWORTH:	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones? A. We laid new ones. Q. So did you do any tearing up of concrete at the Ellisville State School? A. Some. Q. How long did that job take? A. A while. Q. A few weeks or a few months? A. A long time. Q. Okay. And then in Bay Springs, do you remember what job site you were at in Bay Springs?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.  MR. FOXWORTH:  it shows sand and cement. It should have been sand, cement and concrete. So I want you to know that on the front end that's a typo on my part.  MS. LEE:  Okay.  MR. FOXWORTH:  It's an error on the fact sheet that's my error. So he's claiming exposure for all three	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones? A. We laid new ones. Q. So did you do any tearing up of concrete at the Ellisville State School? A. Some. Q. How long did that job take? A. A while. Q. A few weeks or a few months? A. A long time. Q. Okay. And then in Bay Springs, do you remember what job site you were at in Bay Springs? A. No, ma'am.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.  MR. FOXWORTH:  it shows sand and cement. It should have been sand, cement and concrete. So I want you to know that on the front end that's a typo on my part.  MS. LEE:  Okay.  MR. FOXWORTH:  It's an error on the fact sheet that's my error. So he's claiming exposure for all three if you would.  MS. LEE:  At at Pittman and Myrick or	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones? A. We laid new ones. Q. So did you do any tearing up of concrete at the Ellisville State School? A. Some. Q. How long did that job take? A. A while. Q. A few weeks or a few months? A. A long time. Q. Okay. And then in Bay Springs, do you remember what job site you were at in Bay Springs? A. No, ma'am. Q. Okay. And what about in State Line,
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. Yes, ma'am.  MR. FOXWORTH:  Hey, Krisi, I'm going to say something right quick. I noticed on the fact sheet  MS. LEE:  Uh-huh.  MR. FOXWORTH:  where I have Pine Belt Ready Mix  MS. LEE:  Uh-huh.  MR. FOXWORTH:  it shows sand and cement. It should have been sand, cement and concrete. So I want you to know that on the front end that's a typo on my part.  MS. LEE:  Okay.  MR. FOXWORTH:  It's an error on the fact sheet that's my error. So he's claiming exposure for all three if you would.  MS. LEE:	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. Ellisville State School? A. Yes, ma'am. Q. And what were you doing at Ellisville State School? A. We poured all the wheelchair ramps. Q. I'm sorry? A. We poured all the wheelchair ramps. Q. Wheelchair ramps? A. Handicap ramps. Q. Okay. Did you pull up the old ones, or did you just lay new ones? A. We laid new ones. Q. So did you do any tearing up of concrete at the Ellisville State School? A. Some. Q. How long did that job take? A. A while. Q. A few weeks or a few months? A. A long time. Q. Okay. And then in Bay Springs, do you remember what job site you were at in Bay Springs? A. No, ma'am.

		7	
	Page	49	Page 5
- 1	A. What we doing, I don't know. O. Okay.		<ol> <li>A. Yeah. We when they laid blocks.</li> </ol>
3	·	1	Q. Okay. So you weren't buying concrete
4		Ì	3 sand from Pine Belt Ready Mix?
5	is where you tried the sandblasting?	,	A. Yeah. That's the only place I know
6			5 where they got it from.
7			6 MR. FOXWORTH:
8	were working at in Heidelberg or		I don't think you understand the term  By blocks and all that kind of stuff. You need to
9	A. I think it's an oil rig. I'm not for	- 1	B blocks and all that kind of stuff. You need to ask him.
10	sure who owned it.	1	
11	Q. Okay. Did you do any concrete work in	1	and a supple sup
12	Heidelberg?	12	blocks? What were you using the sand for that you
13	A. We poured several slabs up there.	13	got from Pine Belt Ready Mix? Let me ask it that
14	Q. Poured what? I'm sorry.	14	way.
15	r with blads in Tichecholg.	15	<b>-</b>
16	Q. Several slabs?	16	
17	TOUR DOYCH,	17	A. I guess.
18	Several. A bunch of them.	18	
19	Q. Okay. And then in Ellisville, do you	19	A. Yeah. Bricks and blocks.
20	know where you were working in Ellisville or what	20	Q. And so you were mixing like a gray
21	you were doing?	21	mortar with the sand that you got from Pine Belt?
22 23	A. Yeah, worked at state school.	22	A. Yes.
24	Q. Oh, okay. I'm sorry. So you said	23	the state of
25	Laurel, the Ellisville State School?  A. No. Ellisville is Ellisville State	24	· ····································
	A. No. Ellisville is Ellisville State	25	A. Yes.
	Page 50	1	Deve
1	School.	١.	Page 52
2	Q. Okay. So do you know what you did in	2	<ul> <li>Q. Okay. And you also got cement from</li> <li>Pine Belt Ready Mix; is</li> </ul>
3	Laurel?	3	A. Yes, ma'am.
4	A. Laurel. I don't know.	14	Q. — that right? What were you using
5	Q. Okay.	5	that cement for, the same purpose, to lay
6	A. I'm not for sure.	6	A. The one he brought with the trucks, we
7	Q. You poured, I think, a lot of slabs for	7	laid the slabs
8	Tom Pittman. And you did some wheelchair ramps	8	Q. Okay. So you have a
9	and some sidewalks. Did you ever mix any of the	9	A sidewalks and handicap ramps.
10 11	concrete with Tom Pittman yourself?	10	Q. Okay. When you I'm sorry. I want
12	A. No. Q. You didn't?	11	to make sure I have the distinction right between
13	A. No.	12	concrete and cement.
14		13	A. Uh-huh.
	Q. Did anyone that you worked with at Tom Pittman mix it, or did was all of it brought in	14	Q. They brought the concrete in on a truck
16	on a truck?	15	to lay the slabs and to pour the sidewalks?
17	A. It was all brought in on a truck.	16 17	A. Right,
18	Q. The concrete at all of your job sites	18	Q. Okay. When you bought the cement from
19	with Tom Pittman was always brought in on	19	Pine Belt Ready Mix, what was that used for?  A. Used it for it's come in a bag
20	A. Yeah.	20	A. Used it for it's come in a bag. Q. Right.
21	Q a truck?	21	
22	A. Yeah, any finishing concrete was.	22	A. For patching. Like we make a bag pour, tear it up, you know, patch it back.
23	Q. Okay. So when your fact sheet said	23	Q. So you would mix little mixtures of
24	that you got sand and cement from Pine Belt Ready	24	concrete with
25	Mix, would that not be right?	25	A. Yeah, where we need.

Г		<del></del>	
	Page 5	53	Page 55
- 1	Q. — that cement to patch stuff up?		and cement?
	A. Right.	] 2	A. No, ma'am.
J	Q. Okay. I'm sorry. I got us a little	3	Q. Did you ever go to any of the Pine Belt
	The art of the loo sites will I this	4	sites when you were working for Tom Pittman or
	- The Deli	5	Gordon Myrick?
	and amplaced of the contents of the you	6	2 don't romemout.
8	Bee to mont any where one:	7	2. So you temormed ever tarking to anybotic
9	" The Bott got several places.	8	from Pine Belt about their concrete or their sand
10	- Worked at, it was one of		
11		10	Ways and to it, you know
12	going to bo my noxt	11	c
13	1 July 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	12	A THE BO SHOW MIND OF THE WARRY TO WHILE OF
14		13	The state of the s
15	from Laurel. If we in Heidelberg, I think we get	14	Joannoss a pour up of
16	- The state of the	15	and or companied title diffice
17	like that.	16 17	
18		18	S / J
19	that drove the trucks for Pine Belt?	19	1, 2 total section to sett it. I off see
20	A. No, ma'am.	20	
21	Q. Either either when you were with Tom	21	Q. Right. How long did you usually wait after it was poured before you went back and
22	Pittman or with Gordon Myrick, you never knew any	22	chipped it up and cleaned it up and made it look
23	of the guys that worked for	23	right?
24	A. I knew.	24	A. I'm not for sure.
25	Q Pine Belt?	25	Q. Like an hour or a day or a week or
		<del>                                     </del>	
1	Page 54		Page 56
1	A a lot of them, but not not by a	1	was it usually done in the same day?
2	A a lot of them, but not not by a first name basis.	2	was it usually done in the same day?  A. No.
2 3	<ul><li>A a lot of them, but not not by a first name basis.</li><li>Q. Okay. When you got your sand and your</li></ul>	2 3	was it usually done in the same day?  A. No.  Q. Is that a dusty process when you would
2 3 4	<ul> <li>A a lot of them, but not not by a first name basis.</li> <li>Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did</li> </ul>	2 3 4	was it usually done in the same day?  A. No.  Q. Is that a dusty process when you would go in and chip it up and
2 3 4 5	<ul> <li>A a lot of them, but not not by a first name basis.</li> <li>Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?</li> </ul>	2 3 4 5	was it usually done in the same day?  A. No.  Q. Is that a dusty process when you would go in and chip it up and  A. Yes.
2 3 4 5 6	<ul> <li>A a lot of them, but not not by a first name basis.</li> <li>Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?</li> <li>A. It was delivered.</li> </ul>	2 3 4 5 6	was it usually done in the same day?  A. No.  Q. Is that a dusty process when you would go in and chip it up and  A. Yes.  Q clean it up? You were always
2 3 4 5	<ul> <li>A a lot of them, but not not by a first name basis.</li> <li>Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?</li> <li>A. It was delivered.</li> <li>Q. And what kind of trucks was it</li> </ul>	2 3 4 5 6 7	was it usually done in the same day?  A. No.  Q. Is that a dusty process when you would go in and chip it up and  A. Yes.  Q clean it up? You were always wearing respiratory protection, though; right?
2 3 4 5 6 7	<ul> <li>A a lot of them, but not not by a first name basis.</li> <li>Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?</li> <li>A. It was delivered.</li> </ul>	2 3 4 5 6 7 8	was it usually done in the same day?  A. No.  Q. Is that a dusty process when you would go in and chip it up and  A. Yes.  Q clean it up? You were always wearing respiratory protection, though; right?  A. Dust mask.
2 3 4 5 6 7 8	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —	2 3 4 5 6 7 8 9	was it usually done in the same day?  A. No.  Q. Is that a dusty process when you would go in and chip it up and  A. Yes.  Q clean it up? You were always wearing respiratory protection, though; right?  A. Dust mask.  Q. Okay. You said when you were with Tom
2 3 4 5 6 7 8 9	A a lot of them, but not not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a  A. I'm I'm not for sure what what	2 3 4 5 6 7 8 9	was it usually done in the same day?  A. No.  Q. Is that a dusty process when you would go in and chip it up and  A. Yes.  Q clean it up? You were always wearing respiratory protection, though; right?  A. Dust mask.  Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up
2 3 4 5 6 7 8 9 10	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —	2 3 4 5 6 7 8 9 10 11	was it usually done in the same day?  A. No.  Q. Is that a dusty process when you would go in and chip it up and  A. Yes.  Q clean it up? You were always wearing respiratory protection, though; right?  A. Dust mask.  Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up some concrete that Tom Pittman had poured. Do you
2 3 4 5 6 7 8 9 10	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —  A. I'm — I'm not for sure what — what size, six or whatever. It was a red — red truck.  Q. It was a red truck?  A. They had a red one. And then — then	2 3 4 5 6 7 8 9	was it usually done in the same day?  A. No.  Q. Is that a dusty process when you would go in and chip it up and  A. Yes.  Q clean it up? You were always wearing respiratory protection, though; right?  A. Dust mask.  Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up some concrete that Tom Pittman had poured. Do you remember which site that was at that you tore up
2 3 4 5 6 7 8 9 10 11 12 13 14	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —  A. I'm — I'm not for sure what — what size, six or whatever. It was a red — red truck.  Q. It was a red truck?  A. They had a red one. And then — then later on they had a white one —	2 3 4 5 6 7 8 9 10 11	was it usually done in the same day?  A. No.  Q. Is that a dusty process when you would go in and chip it up and  A. Yes.  Q clean it up? You were always wearing respiratory protection, though; right?  A. Dust mask.  Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up some concrete that Tom Pittman had poured. Do you
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —  A. I'm — I'm not for sure what — what size, six or whatever. It was a red — red truck.  Q. It was a red truck?  A. They had a red one. And then — then later on they had a white one —  Q. Do —	2 3 4 5 6 7 8 9 10 11 12 13	was it usually done in the same day?  A. No.  Q. Is that a dusty process when you would go in and chip it up and  A. Yes.  Q clean it up? You were always wearing respiratory protection, though; right?  A. Dust mask.  Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up some concrete that Tom Pittman had poured. Do you remember which site that was at that you tore up concrete that you yourself or someone from Tom
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —  A. I'm — I'm not for sure what — what size, six or whatever. It was a red — red truck.  Q. It was a red truck?  A. They had a red one. And then — then later on they had a white one —  Q. Do —  A. — that delivered it.	2 3 4 5 6 7 8 9 10 11 12 13 14	A. No. Q. Is that a dusty process when you would go in and chip it up and A. Yes. Q clean it up? You were always wearing respiratory protection, though; right? A. Dust mask. Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up some concrete that Tom Pittman had poured. Do you remember which site that was at that you tore up concrete that you yourself or someone from Tom Pittman had poured? A. I don't remember.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —  A. I'm — I'm not for sure what — what size, six or whatever. It was a red — red truck.  Q. It was a red truck?  A. They had a red one. And then — then later on they had a white one —  Q. Do —  A. — that delivered it.  Q. Do you know if it was a Pine Belt truck	2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. No. Q. Is that a dusty process when you would go in and chip it up and A. Yes. Q clean it up? You were always wearing respiratory protection, though; right? A. Dust mask. Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up some concrete that Tom Pittman had poured. Do you remember which site that was at that you tore up concrete that you yourself or someone from Tom Pittman had poured? A. I don't remember.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —  A. I'm — I'm not for sure what — what size, six or whatever. It was a red — red truck.  Q. It was a red truck?  A. They had a red one. And then — then later on they had a white one —  Q. Do —  A. — that delivered it.  Q. Do you know if it was a Pine Belt truck or if it was a contractor, somebody that they	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. No. Q. Is that a dusty process when you would go in and chip it up and A. Yes. Q clean it up? You were always wearing respiratory protection, though; right? A. Dust mask. Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up some concrete that Tom Pittman had poured. Do you remember which site that was at that you tore up concrete that you yourself or someone from Tom Pittman had poured? A. I don't remember. Q. Do you know why you would have have torn out concrete that you poured? Was it a mess-up or
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —  A. I'm — I'm not for sure what — what size, six or whatever. It was a red — red truck.  Q. It was a red truck?  A. They had a red one. And then — then later on they had a white one —  Q. Do —  A. — that delivered it.  Q. Do you know if it was a Pine Belt truck or if it was a contractor, somebody that they hired to bring it out to you?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. No. Q. Is that a dusty process when you would go in and chip it up and A. Yes. Q clean it up? You were always wearing respiratory protection, though; right? A. Dust mask. Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up some concrete that Tom Pittman had poured. Do you remember which site that was at that you tore up concrete that you yourself or someone from Tom Pittman had poured? A. I don't remember. Q. Do you know why you would have have torn out concrete that you poured? Was it a mess-up or A. Well, sometimes it's you might have
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —  A. I'm — I'm not for sure what — what size, six or whatever. It was a red — red truck.  Q. It was a red truck?  A. They had a red one. And then — then later on they had a white one —  Q. Do —  A. — that delivered it.  Q. Do you know if it was a Pine Belt truck or if it was a contractor, somebody that they hired to bring it out to you?  A. It was one of their trucks. Had Pine	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. No. Q. Is that a dusty process when you would go in and chip it up and A. Yes. Q clean it up? You were always wearing respiratory protection, though; right? A. Dust mask. Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up some concrete that Tom Pittman had poured. Do you remember which site that was at that you tore up concrete that you yourself or someone from Tom Pittman had poured? A. I don't remember. Q. Do you know why you would have have torn out concrete that you poured? Was it a mess-up or A. Well, sometimes it's you might have a some high than what it supposed to be. You
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —  A. I'm — I'm not for sure what — what size, six or whatever. It was a red — red truck.  Q. It was a red truck?  A. They had a red one. And then — then later on they had a white one —  Q. Do —  A. — that delivered it.  Q. Do you know if it was a Pine Belt truck or if it was a contractor, somebody that they hired to bring it out to you?  A. It was one of their trucks. Had Pine Belt on the door.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. No. Q. Is that a dusty process when you would go in and chip it up and A. Yes. Q clean it up? You were always wearing respiratory protection, though; right? A. Dust mask. Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up some concrete that Tom Pittman had poured. Do you remember which site that was at that you tore up concrete that you yourself or someone from Tom Pittman had poured? A. I don't remember. Q. Do you know why you would have have torn out concrete that you poured? Was it a mess-up or A. Well, sometimes it's you might have a some high than what it supposed to be. You know, you chip it down. Make it smoother. You
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —  A. I'm — I'm not for sure what — what size, six or whatever. It was a red — red truck.  Q. It was a red truck?  A. They had a red one. And then — then later on they had a white one —  Q. Do —  A. — that delivered it.  Q. Do you know if it was a Pine Belt truck or if it was a contractor, somebody that they hired to bring it out to you?  A. It was one of their trucks. Had Pine Belt on the door.  Q. Okay. And —	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. No. Q. Is that a dusty process when you would go in and chip it up and A. Yes. Q clean it up? You were always wearing respiratory protection, though; right? A. Dust mask. Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up some concrete that Tom Pittman had poured. Do you remember which site that was at that you tore up concrete that you yourself or someone from Tom Pittman had poured? A. I don't remember. Q. Do you know why you would have have torn out concrete that you poured? Was it a mess-up or A. Well, sometimes it's you might have a some high than what it supposed to be. You know, you chip it down. Make it smoother. You know, even with the rest of the floor, something
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —  A. I'm — I'm not for sure what — what size, six or whatever. It was a red — red truck.  Q. It was a red truck?  A. They had a red one. And then — then later on they had a white one —  Q. Do —  A. — that delivered it.  Q. Do you know if it was a Pine Belt truck or if it was a contractor, somebody that they hired to bring it out to you?  A. It was one of their trucks. Had Pine Belt on the door.  Q. Okay. And —  A. I guess it had Pine Belt on the door.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. No. Q. Is that a dusty process when you would go in and chip it up and A. Yes. Q clean it up? You were always wearing respiratory protection, though; right? A. Dust mask. Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up some concrete that Tom Pittman had poured. Do you remember which site that was at that you tore up concrete that you yourself or someone from Tom Pittman had poured? A. I don't remember. Q. Do you know why you would have have torn out concrete that you poured? Was it a mess-up or A. Well, sometimes it's you might have a some high than what it supposed to be. You know, you chip it down. Make it smoother. You know, even with the rest of the floor, something like that.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. — a lot of them, but not — not by a first name basis.  Q. Okay. When you got your sand and your cement from Pine Belt, was that delivered or did somebody go pick it up?  A. It was delivered.  Q. And what kind of trucks was it delivered in, if you remember, a six yard truck or a —  A. I'm — I'm not for sure what — what size, six or whatever. It was a red — red truck.  Q. It was a red truck?  A. They had a red one. And then — then later on they had a white one —  Q. Do —  A. — that delivered it.  Q. Do you know if it was a Pine Belt truck or if it was a contractor, somebody that they hired to bring it out to you?  A. It was one of their trucks. Had Pine Belt on the door.  Q. Okay. And —	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	A. No. Q. Is that a dusty process when you would go in and chip it up and A. Yes. Q clean it up? You were always wearing respiratory protection, though; right? A. Dust mask. Q. Okay. You said when you were with Tom Pittman, that on a couple of occasions you tore up some concrete that Tom Pittman had poured. Do you remember which site that was at that you tore up concrete that you yourself or someone from Tom Pittman had poured? A. I don't remember. Q. Do you know why you would have have torn out concrete that you poured? Was it a mess-up or A. Well, sometimes it's you might have a some high than what it supposed to be. You know, you chip it down. Make it smoother. You know, even with the rest of the floor, something

Г	·	<del></del>		
	Page :	57	Page	59
ı	concrete truck comes out, the guy in the concrete	] ]	redo them?	
1	2 truck dumps the concrete and lays it out. What	2	A. Yes, ma'am.	
- 1	what did you physically do after the concrete was	3	C - The state weath we do do do do	
- (	romot.	4	truck from Pine Belt come to your sites at Tom	
	and deficient was poured, my job	5	Pittman to bring supplies?	
	O Obay Sordall didnly santured at	6	The state of the s	
8	2. Stay. So yan didir contract out the	7		
9	Myrick?	8	e. I mount in band and	
10		9		
1	and the original to the out.	11		
12	it ourselves.	12	Don't guess. It you don't know, you	
13		13	·	
14		14		-
15	you ever use any other kinds of tools in your	15	and an end with the source of the you	
16	concrete work?	16	S s oug competit of	
17	A. We used a lot of tools. You know,	17		
18	hammers and	18	Q. I'm sorry. The bag cement and the sand, you said that was delivered from Pine Belt	
19	Q. I'm sorry.	19	on a truck?	ļ
20	A stuff.	20	A. The sand was.	
21	Q. Other than the the hammer and the	21	Q. The sand was. The cement wasn't	.
22	jackhammer and the chipping tool?	22	delivered on a truck?	I
23	A. Anything pertaining to tearing up	23	A. Sometimes he he might get maybe four	
24	something, chipping up something? What you mean?	24	or five bags of Portland Cement.	
25	You know, it's tools is a screwdriver and a	25	Q. Of Portland Cement?	
	Page 58	<del>                                     </del>	Dave (	$\frac{1}{2}$
1	hammer and	١.	Page 6	1
2	Q. I'm sorry. That wasn't clear. With	1 2	A. Portland. I think that's the name of	ļ
3	your concrete work, when you were tearing it up or	3	it. I'm not for sure. I believe it is Portland. It might be called something else.	
4	chipping it up or finishing it or cleaning it up	4	Q. What was that used for, the Portland	Ì
5	or smoothing it out, did you use any other tools?	5	Cement?	
6	A. No. I don't remember.	6	A. You can mix it in to make a right	ŀ
7	<ul> <li>Q. Okay. You said that on one occasion</li> </ul>	7	back in with the concrete.	
8	you tore some concrete out from inside a building.	8	VIDEO SPECIALIST:	ı
9	Do you remember where that was that you were	9	Off the record. The time is 11:43.	
10	tearing concrete out inside?	10	(Off the record.)	
11	A. I believe it was the state school.	11	VIDEO SPECIALIST:	
12	Q. Do you remember what you were tearing	12	Back on record. The time is 11:44,	
13 14	out inside?  A. We did some I think they made some	13	MS. LEE:	
15	A. We did some I think they made some bad holes on some drains.	14	Q. Okay. Mr. McGilberry, I'm going to	
16	Q. On some drains?	15	move on to your job at Gordon Myrick. And I'm	
17	A. Drains. You know, it wasn't deep	16	going to do the same thing we did with Tom	
18	enough.	17 18	Pittman, and that is go through the towns that you	
19	Q. Was it like in a bathroom or something?	19	listed.	
20	A. Something like that.	20	A. Yes, ma'am.	
21	Q. And do you know where the concrete came	21	Q. Ellisville, Laurel, Collins and Stringer. Do you recall any other cities where	
22	from that you were tearing out inside?	22	you worked with Gordon Myrick?	
23	A. From Pine Belt.	23	A. No.	
24	Q. Y'all had poured the drains and they	24	Q. Okay. Do you recall what you were	
25	Warrent door one wak and a section to the		John word with And More	ĺ
25	weren't deep enough and you had to go back and	25	doing in Ellisville with Gordon Myrick?	Ţ

Page 61 Page 63 1 A. We did the library. We did the girls' A. We remodeled the -- the church across 2 dormitory. And we did the game room at JC. All from the city hall -- I mean, the courthouse, whatever. We did the fence around the oil field 3 4 Q. All three of these -- the library, the 4 out here on 15. We remodeled Phillips Building girls' dorm and the game room -- were all at Jones 5 Supply right now, the new one. It used to be County Junior College? 6 some -- something else. 7 A. Right. 7 Q. So it wasn't Phillips Building Supply 8 Q. And what were you doing at the 8 when you were remodeling it? library -- with the library? Were you building 9 A. No. It was something else. 10 the library? 10 Q. Okay. But that building? 11 A. Building a new library. 11 A. Uh-huh. 12 Q. Were the library, the girls' dorm and 12 Q. What type of work were you doing when 13 the game room all done at the same time, or did you were remodeling the church? 13 14 you go back three different times -14 A. Chipping --15 A. Every time --15 Chipping concrete? 16 Q. -- for different ---- tearing -- tearing out bricks and 16 17 A. -- you finish one contract and they bid 17 stuff like that. 18 on a new contract. 18 Q. And at the oil field, I assume you were 19 Q. So like when you finished the library, just building a fence out there? 19 20 did you start on the girls' dorm or did you go to 20 Yeah. Α. 21 one of these other towns and do a different 21 What kind of -- is it a chain link 22 project and then come back? Do you understand my 22 fence or a wooden fence or --23 question? 23 Brick and block fence. 24 A. I understand what you're --24 Brick and block fence. And then when 25 Q. Okay. 25 you were remodeling the building where Phillips Page 62 Page 64 1 A. -- saying. All I remember, I worked on Building Supply is located now, what were you 1 all -- all the jobs -- all the jobs at the same 2 doing there? time. You know, we never was in the same spot all 3 A. Tearing out and redoing it. the time. You might be in one spot one week. And 4 Q. So you were tearing out old you might work two days somewhere else. You might 5 A. Pouring concrete and stuff like that. work two days somewhere else and stuff like that. Q. Okay. What were you doing in Collins, 6 7 Q. You're talking about within Jones 7 Mississippi, for Gordon Myrick? County Junior College, you might go from one A. We built Union Planters Bank out there 8 project to another --9 in Collins. 10 A. Right. 10 That one right there on 84 across from O. Q. - in the same week? Okay. That 11 11 the Chevron? 12 answers my question. Thank you. And were all 12 A. Right. 13 three of these new buildings -- the girls' dorm. 13 Okay. You built that from the ground 14 the game room and the library? Did you all build 14 up? 15 those from the ground up? 15 A. Ground up. 16 A. Yeah. How long did that project take? 16 17 Q. What all were your responsibilities in 17 Quite a while. A. building these buildings? Did you just do 18 A couple of months? 18 Q. concrete work, or did you do any other kind of-19 19 A. No. 20 construction work? 20 Q. Longer than that? 21 A. I was a laborer. 21 Longer. 22 Q. What were your duties as a laborer? 22 Six months? Don't guess. I just --Q. 23 Mostly grading, cleaning up, chipping. 23 Α. 24 Q. What did you do in Laurel, Mississippi, 24 Q. The better part of a year? 25 for Gordon Myrick? 25 A. I guess.

		<b>—</b>	
١.	Page (	9	Page 7
1	c and the second		That's fine.
2	or and the state of the state o	2	2 MR. FOXWORTH:
3		] 3	Let's let's do a polling on time.
4	C. Do you wouldn't have mixed any more	4	
5	you were want corden trigitor?	5	MR. WILBANKS:
6	- 2, 2,00	6	John, since I wasn't here yesterday, on
7	Ç. 0.1.1	7	the record, there was there's no claim for
8	Bomb to make mar allawer	8	wearing respirators; right?
9	- The state of the	9	
10	e. The journey of the solly, 100	10	That is correct.
11	To, you didn't miswer that	11	
12	i y ever total out taily of the	12	
13	and you posited when you were will Goldon	1   13	MR. FOXWORTH:
14		14	Make sure that's on the record.
15		15	(Discussion amongst counsel.)
16	the state of the s	16	
17		17	Off the record. The time is 11:59.
18		18	(A lunch break was taken.)
19	· <b>G</b>	19	VIDEO SPECIALIST:
20	Q. Which one of the buildings at the	20	Back on record. The time is 12:40.
21	college?	21	MS. LEE:
22	A. It was the one of the walls where	22	Q. Mr. McGilberry, while we were on our
23	they - the coaches - where they room is going to	23	lunch break, your lawyer told us that you
24	be at. One of the walls busted.	24	remembered a few more job sites. And I'm going to
25	Q. How many people were on your crew at	25	go through those with you. I think you remembered
	Page 70		Page 72
1	Gordon Myrick?	1	some from Tom Pittman and from Gordon Myrick?
2	A. More than 12.	2	A. Right.
3	Q. And that would be the same for all of	3	Q. Let's start with Tom Pittman. If you
4	the job sites, more than 12 -	4	would, tell me the job sites that you remembered
5	A. No.	5	in the break from Tom Pittman.
6	Q with Gordon Myrick? That was just	6	A. Okay. Heidelberg Academy
7	the	7	Q. Uh-huh.
8	A. Oh, yeah. Usually we saw them leave	8	A we did a gym. And then still in
9	one job site, go to another job site.	9	Heidelberg, we did the - the grocery store in
10	Q. How about with Tom Pittman, how many	10	Heidelberg. It's on the outside of town.
11	people were on your crew at Tom Pittman?	11	Q. Okay. Those are the two things that
12	A. About six.	12	you remember from Heidelberg?
13	Q. And you can't tell me the name of	13	A. They were with Tom Pittman.
1.4		1 1 4	Q. With Tom Pittman?
14	anybody that worked at Pine Belt either driving	14	Q. With Four Fitting !
15	the mixing truck or the delivery trucks?	15	A. Uh-huh.
15 16	the mixing truck or the delivery trucks?  A. No, ma'am.	15 16	A. Uh-huh.     Q. When you did the gym at Heidelberg
15 16 17	the mixing truck or the delivery trucks?  A. No, ma'am.  MS. LEE:	15 16 17	A. Uh-huh. Q. When you did the gym at Heidelberg Academy, was that a new building or were you
15 16 17 18	the mixing truck or the delivery trucks?  A. No, ma'am.  MS. LEE:  Mr. McGilberry, I think that's all the	15 16 17 18	A. Uh-huh.     Q. When you did the gym at Heidelberg
15 16 17 18 19	the mixing truck or the delivery trucks?  A. No, ma'am.  MS. LEE:  Mr. McGilberry, I think that's all the questions I have. I would like to at this time	15 16 17 18 19	A. Uh-huh. Q. When you did the gym at Heidelberg Academy, was that a new building or were you A. Yeah, new building. Q remodeling?
15 16 17 18 19 20	the mixing truck or the delivery trucks?  A. No, ma'am.  MS. LEE:  Mr. McGilberry, I think that's all the questions I have. I would like to at this time join in the objection that Mr. Manuel put on the	15 16 17 18 19 20	<ul> <li>A. Uh-huh.</li> <li>Q. When you did the gym at Heidelberg</li> <li>Academy, was that a new building or were you</li> <li>A. Yeah, new building.</li> <li>Q remodeling?</li> <li>A. New building.</li> </ul>
15 16 17 18 19 20 21	the mixing truck or the delivery trucks?  A. No, ma'am.  MS. LEE:  Mr. McGilberry, I think that's all the questions I have. I would like to at this time join in the objection that Mr. Manuel put on the record yesterday.	15 16 17 18 19 20 21	<ul> <li>A. Uh-huh.</li> <li>Q. When you did the gym at Heidelberg</li> <li>Academy, was that a new building or were you</li> <li>A. Yeah, new building.</li> <li>Q remodeling?</li> <li>A. New building.</li> <li>Q. A new building. How long did that</li> </ul>
15 16 17 18 19 20 21 22	the mixing truck or the delivery trucks?  A. No, ma'am.  MS. LEE:  Mr. McGilberry, I think that's all the questions I have. I would like to at this time join in the objection that Mr. Manuel put on the record yesterday.  MR. FOXWORTH:	15 16 17 18 19 20 21 22	A. Uh-huh. Q. When you did the gym at Heidelberg Academy, was that a new building or were you A. Yeah, new building. Q remodeling? A. New building. Q. A new building. How long did that project take?
15 16 17 18 19 20 21 22 23	the mixing truck or the delivery trucks?  A. No, ma'am.  MS. LEE:  Mr. McGilberry, I think that's all the questions I have. I would like to at this time join in the objection that Mr. Manuel put on the record yesterday.  MR. FOXWORTH:  So let it be written. So let it be	15 16 17 18 19 20 21 22 23	A. Uh-huh. Q. When you did the gym at Heidelberg Academy, was that a new building or were you A. Yeah, new building. Q remodeling? A. New building. Q. A new building. How long did that project take? A. I'm not for sure how long it took.
15 16 17 18 19 20 21 22 23 24	the mixing truck or the delivery trucks?  A. No, ma'am.  MS. LEE:  Mr. McGilberry, I think that's all the questions I have. I would like to at this time join in the objection that Mr. Manuel put on the record yesterday.  MR. FOXWORTH:	15 16 17 18 19 20 21 22	A. Uh-huh. Q. When you did the gym at Heidelberg Academy, was that a new building or were you A. Yeah, new building. Q remodeling? A. New building. Q. A new building. How long did that project take?

		T		
,	Page 73			Page 75
2	<ul><li>A. Grading, cleaning up and chipping.</li><li>Q. Was that a block building or a brick</li></ul>	1		do you fix the mess-ups while it's still
3	Q. Was that a block building or a brick building, or was it a metal building?	2 3	wet?	Most of the time we did it when it
4	A. I think it's a metal building.	4		or when they found out it was messed up.
5	Q. So you just basically had the slab with	5	Q.	Uh-huh.
6	the gym and everything else was metal?	6	A.	It was dry.
7	A. I believe so. I'm not for sure.	7	Q.	Okay. And was that usually when the
8	Q. And do you know who supplied the	8	-	te was still somewhat wet?
9	concrete for the gym at Heidelberg Academy?	9	Α,	No. It it was it was solid dry.
10	A. Pine Belt.	10	Q.	Oh, it was dry. Okay. And then you
11	MR. FOXWORTH:	11	did the	grocery store in Heidelberg; is
12	Pine Belt Ready Mix?	12	Α.	Yes, ma'am.
13	THE WITNESS:	13	Q.	that right?
14	Yes, sir.	14	A.	Right - right across from the academy.
15	MS. LEE:	15	Q.	Across from the academy?
16	Q. And you did the grading work prepping	16	Α.	Right.
17	it up to have the concrete poured for the gym?	17	Q.	Do you know the name of that grocery
18 19	A. Yes, ma'am.	18	store?	TI . C
20	<ul><li>Q. And then you did cleanup?</li><li>A. Yes, ma'am.</li></ul>	19 20	Α.	I'm not for sure what's the name of it
21	Q. Did you do any other work on the gym	21	now.	Was that a new building?
22	besides like putting the walls up and	22	Q. A.	Yes, ma'am.
23	A. Yes, ma'am.	23	Q.	And what were your responsibilities
24	Q actually doing the building?	24		e grocery store in Heidelberg?
25	A. Yes, ma'am.	25	A.	Mostly the same thing. Grading,
-				
	Page 74			Page 76
1	Q. How much time do you think you spent	1		the building up and cleaning up and
2	doing the actual chipping on the slab?	2	chipping	
3	A. We had a bunch of spots that didn't -	3		What kind of building was it? Was it a
4	didn't come out right. So we had to on	4		ailding, or was it a
5	timewise, I'm not for sure.	5		Metal building.
7	Q. Okay. Was that just a small part of the overall responsibilities you had when you	0		mandal basifaliman Da dia amba
ţ '		17		metal building? So the only
8	<b>~</b>	7	concrete	work involved with the grocery store was
8	built the gym, though?	8	concrete pouring	e work involved with the grocery store was the foundation?
8 9 10	built the gym, though?  A. Some of it.	8 9	concrete pouring A.	e work involved with the grocery store was the foundation? Yes, ma'am.
9	built the gym, though?	8	concrete pouring A.	e work involved with the grocery store was the foundation?
9 10 11 12	built the gym, though?  A. Some of it.  Q. So Pine Belt came in and they poured the slab for the gym, and there was a lot of places you said that weren't right you had to go	8 9 10	concrete pouring A. Q. job?	e work involved with the grocery store was the foundation? Yes, ma'am.
9 10 11 12 13	built the gym, though?  A. Some of it.  Q. So Pine Belt came in and they poured the slab for the gym, and there was a lot of places you said that weren't right you had to go back and fix?	8 9 10 11 12 13	concrete pouring A. Q. job? A. Q.	e work involved with the grocery store was the foundation? Yes, ma'am. And who supplied the concrete for that Pine Belt Ready Mix. How much of the time on the grocery
9 10 11 12 13 14	built the gym, though?  A. Some of it.  Q. So Pine Belt came in and they poured the slab for the gym, and there was a lot of places you said that weren't right you had to go back and fix?  A. Yes, ma'am.	8 9 10 11 12 13 14	concrete pouring A. Q. job? A. Q. store did	e work involved with the grocery store was the foundation? Yes, ma'am. And who supplied the concrete for that Pine Belt Ready Mix. How much of the time on the grocery if you spend chipping as opposed to
9 10 11 12 13 14 15	built the gym, though?  A. Some of it.  Q. So Pine Belt came in and they poured the slab for the gym, and there was a lot of places you said that weren't right you had to go back and fix?  A. Yes, ma'am.  Q. How long after they poured that slab	8 9 10 11 12 13 14 15	concrete pouring A. Q. job? A. Q. store did cleaning	e work involved with the grocery store was the foundation? Yes, ma'am. And who supplied the concrete for that Pine Belt Ready Mix. How much of the time on the grocery
9 10 11 12 13 14 15 16	built the gym, though?  A. Some of it.  Q. So Pine Belt came in and they poured the slab for the gym, and there was a lot of places you said that weren't right you had to go back and fix?  A. Yes, ma'am.  Q. How long after they poured that slab did you go back and fix all the chinks and	8 9 10 11 12 13 14 15	concrete pouring A. Q. job? A. Q. store did cleaning work?	e work involved with the grocery store was the foundation? Yes, ma'am. And who supplied the concrete for that Pine Belt Ready Mix. How much of the time on the grocery if you spend chipping as opposed to gup and grading and other construction
9 10 11 12 13 14 15 16 17	built the gym, though?  A. Some of it.  Q. So Pine Belt came in and they poured the slab for the gym, and there was a lot of places you said that weren't right you had to go back and fix?  A. Yes, ma'am.  Q. How long after they poured that slab did you go back and fix all the chinks and mistakes?	8 9 10 11 12 13 14 15 16	concrete pouring A. Q. job? A. Q. store did cleaning work? A.	e work involved with the grocery store was the foundation? Yes, ma'am. And who supplied the concrete for that Pine Belt Ready Mix. How much of the time on the grocery if you spend chipping as opposed to grup and grading and other construction I remember we had to chip out because
9 10 11 12 13 14 15 16 17	built the gym, though?  A. Some of it.  Q. So Pine Belt came in and they poured the slab for the gym, and there was a lot of places you said that weren't right you had to go back and fix?  A. Yes, ma'am.  Q. How long after they poured that slab did you go back and fix all the chinks and mistakes?  A. I'm not for sure.	8 9 10 11 12 13 14 15 16 17	concrete pouring A. Q. job? A. Q. store did cleaning work? A. where the	e work involved with the grocery store was the foundation? Yes, ma'am. And who supplied the concrete for that Pine Belt Ready Mix. How much of the time on the grocery if you spend chipping as opposed to gup and grading and other construction I remember we had to chip out because the lines for the — the coolers, they
9 10 11 12 13 14 15 16 17 18	built the gym, though?  A. Some of it.  Q. So Pine Belt came in and they poured the slab for the gym, and there was a lot of places you said that weren't right you had to go back and fix?  A. Yes, ma'am.  Q. How long after they poured that slab did you go back and fix all the chinks and mistakes?  A. I'm not for sure.  MR. FOXWORTH:	8 9 10 11 12 13 14 15 16 17 18	concrete pouring A. Q. job? A. Q. store did cleaning work? A. where the wasn't	e work involved with the grocery store was the foundation? Yes, ma'am. And who supplied the concrete for that Pine Belt Ready Mix. How much of the time on the grocery if you spend chipping as opposed to grup and grading and other construction I remember we had to chip out because the lines for the — the coolers, they where they supposed to be at. So we had to
9 10 11 12 13 14 15 16 17 18 19 20	built the gym, though?  A. Some of it.  Q. So Pine Belt came in and they poured the slab for the gym, and there was a lot of places you said that weren't right you had to go back and fix?  A. Yes, ma'am.  Q. How long after they poured that slab did you go back and fix all the chinks and mistakes?  A. I'm not for sure.  MR. FOXWORTH:  That's okay. This doesn't have to be	8 9 10 11 12 13 14 15 16 17 18 19 20	concrete pouring A. Q. job? A. Q. store did cleaning work? A. where the wasn't w chip out	e work involved with the grocery store was the foundation? Yes, ma'am. And who supplied the concrete for that Pine Belt Ready Mix. How much of the time on the grocery if you spend chipping as opposed to grup and grading and other construction I remember we had to chip out because the lines for the — the coolers, they where they supposed to be at. So we had to , and they had to redo it.
9 10 11 12 13 14 15 16 17 18 19 20 21	built the gym, though?  A. Some of it.  Q. So Pine Belt came in and they poured the slab for the gym, and there was a lot of places you said that weren't right you had to go back and fix?  A. Yes, ma'am.  Q. How long after they poured that slab did you go back and fix all the chinks and mistakes?  A. I'm not for sure.  MR. FOXWORTH:  That's okay. This doesn't have to be on:	8 9 10 11 12 13 14 15 16 17 18 19 20 21	concrete pouring A. Q. job? A. Q. store did cleaning work? A. where the wasn't we chip out Q.	e work involved with the grocery store was the foundation? Yes, ma'am. And who supplied the concrete for that Pine Belt Ready Mix. How much of the time on the grocery if you spend chipping as opposed to grup and grading and other construction. I remember we had to chip out because the lines for the — the coolers, they where they supposed to be at. So we had to and they had to redo it. The plumbing lines?
9 10 11 12 13 14 15 16 17 18 19 20 21 22	built the gym, though?  A. Some of it.  Q. So Pine Belt came in and they poured the slab for the gym, and there was a lot of places you said that weren't right you had to go back and fix?  A. Yes, ma'am.  Q. How long after they poured that slab did you go back and fix all the chinks and mistakes?  A. I'm not for sure.  MR. FOXWORTH:  That's okay. This doesn't have to be on:  (Off the record.)	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	concrete pouring A. Q. job? A. Q. store did cleaning work? A. where the wasn't we chip out Q. A.	e work involved with the grocery store was the foundation? Yes, ma'am. And who supplied the concrete for that Pine Belt Ready Mix. How much of the time on the grocery if you spend chipping as opposed to grup and grading and other construction. I remember we had to chip out because the lines for the — the coolers, they where they supposed to be at. So we had to and they had to redo it. The plumbing lines? I don't know if you call it the
9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	built the gym, though?  A. Some of it.  Q. So Pine Belt came in and they poured the slab for the gym, and there was a lot of places you said that weren't right you had to go back and fix?  A. Yes, ma'am.  Q. How long after they poured that slab did you go back and fix all the chinks and mistakes?  A. I'm not for sure.  MR. FOXWORTH:  That's okay. This doesn't have to be on:  (Off the record.)  MS. LEE:	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	concrete pouring A. Q. job? A. Q. store did cleaning work? A. where the wasn't with the chip out Q. A. plumbin	e work involved with the grocery store was the foundation? Yes, ma'am. And who supplied the concrete for that Pine Belt Ready Mix. How much of the time on the grocery if you spend chipping as opposed to grup and grading and other construction.  I remember we had to chip out because the lines for the — the coolers, they where they supposed to be at. So we had to grad they had to redo it. The plumbing lines? I don't know if you call it the glines or what. I think — I don't —
9 10 11 12 13 14 15 16 17 18 19 20 21 22	built the gym, though?  A. Some of it.  Q. So Pine Belt came in and they poured the slab for the gym, and there was a lot of places you said that weren't right you had to go back and fix?  A. Yes, ma'am.  Q. How long after they poured that slab did you go back and fix all the chinks and mistakes?  A. I'm not for sure.  MR. FOXWORTH:  That's okay. This doesn't have to be on:  (Off the record.)	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	concrete pouring A. Q. job? A. Q. store did cleaning work? A. where the wasn't we chip out Q. A. plumbin Q.	e work involved with the grocery store was the foundation? Yes, ma'am. And who supplied the concrete for that Pine Belt Ready Mix. How much of the time on the grocery if you spend chipping as opposed to grup and grading and other construction. I remember we had to chip out because the lines for the — the coolers, they where they supposed to be at. So we had to and they had to redo it. The plumbing lines? I don't know if you call it the

_			
	Page 7	7	Page 79
	1 MR. FOXWORTH:	1	A. Yes, ma'am.
ŧ	2 If you know, you know. Don't guess.	2	
- 1	A. I'm not for sure how many months.	3	Gordon Myrick?
- 1	4 MS. LEE:	4	The are a man shopping comes
- 1	Q. And for the time that you were there	5	in Collins off of 49. It was a grocery store.
- 1	building the grocery store — for the entire time	6	And I think it was a dollar store. I think it
i i	you worked on the grocery store, how much of the	7	that's what it was.
- 1	time would you say was spent doing the foundation	8	the state of the s
1 1	work and laying the foundation and chipping as	9	A. Yes, ma'am.
1	II but but it is the but it is but it is but it is it	10	c and a second s
1		11	A. No, ma'am. This here was brick I
13	C = ==	12	,
1.	B B J	13	C THE THE TAX TO TO THE TOOL
14	1 2 0 m	14	, in the state of
1.	the second secon	15	and a start of Collins.
10	The second secon	16	C THE REPORT AND DIODIES TOT LIKE
17	Col Co	17	building, do you know where they came from?
18 19		18	
20	5 ,	19	2
21		20	though?
22	in the same of the	21	A. No. They didn't have blocks.
23	•	22	Q. When you were working on the shopping
24	,	23	center in Collins, did you mix any of your own
25	C 1	24	concrete?
	answer, you know, that you're giving. I'm not	25	A. No, ma'am.
	Page 78		Page 80
1	I can't I really don't understand.	1	Q. Did you mix the mortar to lay the
2	MR. FOXWORTH:	2	the blocks?
3	She'll rephrase her question.	3	A. No, ma'am.
4	MS. LEE:	4	Q. Do you know where the mortar came from
5	Q. Yeah, I can rephrase.	5	where you laid the blocks - that you laid the
6	A. Okay.	6	blocks with?
7	<ol> <li>Q. Hypothetically, you were at the grocery</li> </ol>	7	A. No. They came with the where the
8	store for four months. How much of that four	8	blocks came.
9	months would have been working on the foundation	9	Q. Do you know how long the shopping
10	as opposed to putting the walls up and doing any	10	center in Collins took to build?
11	other kind of work, grading work that you were	11	A. I'm not for sure.
12	doing?	12	Q. And how much of the time spent on the
13	MR. FOXWORTH:	13	shopping center was spent chipping concrete as
14 15	If you know MS. LEE:	14	opposed to grading and other construction?
16		15	A. I would say grading may be 25 percent
17	Q. How long did it take to actually pour	16	and concrete and chipping about 75 both together.
18	the foundation and get all the the chinks and kinks worked out?	17	Q. And that's just of the total time that
19	MR. FOXWORTH:	18	you spent on the foundation. That wouldn't be of
20	If you know, you know.	19	the whole project. You didn't do concrete for
21	A. I would say about a couple of weeks.	20	75 percent of the whole project; right?
22	MS. LEE:	21	A. Well, that's all it was. See, it was
23	Q. Okay. Okay. And then you said you	22 23	blocks and concrete and – and a top on it.
24	remembered some job sites when you were with	23 24	Q. Did you actually build the building, or
	Gordon Myrick?	25 25	did you just do the foundation for the shop?  A. We did the foundation. And I did the
25	COLCOIT INTALION:		

Γ-		<del></del>	
	Page	81	Page 8
1	l cleaning up and -		Q. And it was only a concrete slab. The
2	Q. Someone else came in and laid the	- 1	2 rest of the building was metal?
3		- 1	3 A. Yes, ma'am.
4	A. Yeah. Another another crew come in		
5		4	the state of the s
6	•	ı	The state of the s
7	-		
8	***************************************	1	C mo consteto portion:
9	Committee of the contract of t	8	, , zite oloumiz up.
10		9	- Printed and donor etc for the
11		10	The state of the s
12	C3 mac mac	11	
13	the state of the s	12	C. — and on markers, or your own conclete
[		13	3 for that addition?
14	6. War you were at Helderberg With Total	14	MR. FOXWORTH:
15	The state of the bitopping control willi	15	When you say his own, you mean
16	y and y and y and the composite.	16	something
17	were you wearing respiratory protection?	17	3
18	A. Dust mask.	18	
19	C The same of the build dest lines that	19	C TITE TO THE SOLUTION OF A VIOLENCE OF A VI
20	you've describing	20	y
21	A. Yes, ma'am.	21	patching. Patching the holes.
22	Q during your work?	22	
23	MR. FOXWORTH:	23	C J C Mille Mole and Office; Did
24	Asked and answered.	24	b the state of the parting in the state of the
25	MS. LEE:	25	manustrat part:
		123	A. Had quite a few holes.
	Page 82		Page 84
1	Q. Are these the only job sites that you	1	Q. And that mixing would have all been
2	remember	2	done on separate occasions?
3	A. I have two more.	3	A. Yes, ma'am.
4	Q Mr. McGilberry?	4	Q. Where did you get the materials used to
5	A. A couple more.	5	mix that concrete?
6	Q. Oh, you have a couple more?	6	MR. FOXWORTH:
7	A. Yes, ma'am.	7	
8	Q. What else do you remember?	8	What do you mean by materials? MS. LEE:
9	A. We did a — we did a big addition for	9	
10	Southern Touch in Ellisville at the industrial	10	The components of the concrete. He
11	park.	}	mixed his own concrete.
12	Q. Southern Touch?	11	Q. Where did you get the materials that
13	Q. Yes, ma'am.	12	MR. FOXWORTH:
14		13	Talking about like the sand, mortar and
15		14	all that?
16	A. It used to be the place they made the	15	MS. LEE:
17	apple juice. But I think somebody else got the	16	Whatever it takes.
	building now.	17	A. Portland Cement from Phillips.
18	Q. And what was involved in the addition	18	MR. FOXWORTH:
19	to Southern Touch in Ellisville at the industrial	19.	Phillips what?
20	park?	20	THE WITNESS:
21	A. A lot of concrete. It was a metal	21	Phillips Building Supply.
22	building.	22	A. And I'm not for sure on the sand.
23	Q. So you were actually adding on to the	23	MS. LEE:
24	building?	24	i i
25	A. Yes, ma'am.	25	mixed that concrete von've told us about
			Q. And would you mix this the same warmixed that concrete you've told us about

	Page 85	Τ	Dage 97
1	previously?	1	Page 87
2	A. Yes, ma'am.	2	the truck can back inside the building.  Q. Right.
3	Q. Do you remember how long this job took	3	A. And we closed it up where the trucks
4	at Southern Touch?	4	couldn't back inside. The only just could be
5	A. Took quite a while. I'm not for sure.	5	inside was just the doors.
6	Q. I apologize if you've already answered	6	Q. So you where there's a big roll door
7	this question, Mr. McGilberry. But when you were	7	where the truck backs up to a building, you took
8	moving from job site to job site with Gordon	8	that door out and you closed it in and made it a
9	Myrick, were the — your coworkers the same at all	9	wall there?
10	these job sites?	10	A. No. We poured concrete in the floor,
11	A. Sometimes.	11	closed it up. You know, concrete
12	Q. Have you already told us the names of	12	Q. Okay.
13	all the people you remember working with?	13	A that up and and fix it where you
14	A. A lot of them they just weren't from	14	couldn't just back into it. That's - that was
15	Ellisville. They was you know, some of them	15	it.
16	from the Coast where Gordon Myrick is out of.	16	Q. Okay. How long did that job take?
17	That's where they got an office in Gulfport.	17	A. About two weeks.
18	And	18	Q. And do you know who supplied the
19	Q. Were there any particular folks that	19	concrete to that job?
20	you worked with on all your jobs or on a large	20	A. Pine Belt.
21	majority of your jobs?	21	Q. How many times did Pine Belt come out
22	A. Do what now?	22	there with concrete in that two week period? More
23	Q. Were there any guys that you worked	23	than once?
24	with on all your jobs for Gordon Myrick that went	24	A. Which job?
25	with you from job to job?	25	Q. At Hoy. I'm sorry.
		<del> </del>	
-	Page 86		Page 88
1		1	·
1 2	A. A lot of time I went to job to job when	1 2	A. I'm not for sure how many trucks came.
ŧ	A. A lot of time I went to job to job when I went because the way I work. And he always take	1	<ul><li>A. I'm not for sure how many trucks came.</li><li>Q. Did you mix any of your own concrete at</li></ul>
2	A. A lot of time I went to job to job when	2	A. I'm not for sure how many trucks came.
3	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from	2 3	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy?
2 3 4 5 6	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.	2 3 4	<ul> <li>A. I'm not for sure how many trucks came.</li> <li>Q. Did you mix any of your own concrete at Hoy?</li> <li>A. No, ma'am.</li> </ul>
2 3 4 5 6 7	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man.	2 3 4. 5	<ul> <li>A. I'm not for sure how many trucks came.</li> <li>Q. Did you mix any of your own concrete at</li> <li>Hoy?</li> <li>A. No, ma'am.</li> <li>Q. Did you do any chipping at Hoy?</li> </ul>
2 3 4 5 6 7 8	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever	2 3 4 5 6 7 8	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods?
2 3 4 5 6 7 8 9	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?	2 3 4 5 6 7 8 9	<ul> <li>A. I'm not for sure how many trucks came.</li> <li>Q. Did you mix any of your own concrete at</li> <li>Hoy?</li> <li>A. No, ma'am.</li> <li>Q. Did you do any chipping at Hoy?</li> <li>A. We drilled some holes with a drill and stuck rods in them.</li> <li>Q. Stuck rods?</li> <li>A. Yeah. We stuck the rods in them so the</li> </ul>
2 3 4 5 6 7 8 9	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.	2 3 4 5 6 7 8 9	<ul> <li>A. I'm not for sure how many trucks came.</li> <li>Q. Did you mix any of your own concrete at</li> <li>Hoy?</li> <li>A. No, ma'am.</li> <li>Q. Did you do any chipping at Hoy?</li> <li>A. We drilled some holes with a drill and</li> <li>stuck rods in them.</li> <li>Q. Stuck rods?</li> <li>A. Yeah. We stuck the rods in them so the</li> <li>concrete could bond in to the to that.</li> </ul>
2 3 4 5 6 7 8 9 10 11	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that	2 3 4 5 6 7 8 9 10	<ul> <li>A. I'm not for sure how many trucks came.</li> <li>Q. Did you mix any of your own concrete at</li> <li>Hoy?</li> <li>A. No, ma'am.</li> <li>Q. Did you do any chipping at Hoy?</li> <li>A. We drilled some holes with a drill and</li> <li>stuck rods in them.</li> <li>Q. Stuck rods?</li> <li>A. Yeah. We stuck the rods in them so the</li> <li>concrete could bond in to the to that.</li> <li>Q. Did you use some kind of special</li> </ul>
2 3 4 5 6 7 8 9 10 11 12	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that you remember, Mr. McGilberry?	2 3 4 5 6 7 8 9 10 11 12	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods? A. Yeah. We stuck the rods in them so the concrete could bond in to the — to that. Q. Did you use some kind of special concrete drill for that?
2 3 4 5 6 7 8 9 10 11 12 13	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that you remember, Mr. McGilberry?  A. We closed some — some docks in up in	2 3 4 5 6 7 8 9 10 11 12 13	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods? A. Yeah. We stuck the rods in them so the concrete could bond in to the to that. Q. Did you use some kind of special concrete drill for that? A. Yes, ma'am.
2 3 4 5 6 7 8 9 10 11 12 13 14	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that you remember, Mr. McGilberry?  A. We closed some — some docks in up in Laurel up at — let me see. They called it — up	2 3 4 5 6 7 8 9 10 11 12 13 14	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods? A. Yeah. We stuck the rods in them so the concrete could bond in to the to that. Q. Did you use some kind of special concrete drill for that? A. Yes, ma'am. Q. Any other chipping or patching did you
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that you remember, Mr. McGilberry?  A. We closed some — some docks in up in Laurel up at — let me see. They called it — up here in Hoy, Mississippi. It's called Hoy, but	2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods? A. Yeah. We stuck the rods in them so the concrete could bond in to the — to that. Q. Did you use some kind of special concrete drill for that? A. Yes, ma'am. Q. Any other chipping or patching did you do there?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that you remember, Mr. McGilberry?  A. We closed some — some docks in up in Laurel up at — let me see. They called it — up here in Hoy, Mississippi. It's called Hoy, but that's — that's where we did the job at.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods? A. Yeah. We stuck the rods in them so the concrete could bond in to the to that. Q. Did you use some kind of special concrete drill for that? A. Yes, ma'am. Q. Any other chipping or patching did you do there? A. Well, that that that type drill,
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that you remember, Mr. McGilberry?  A. We closed some — some docks in up in Laurel up at — let me see. They called it — up here in Hoy, Mississippi. It's called Hoy, but that's — that's where we did the job at.  Q. Heart?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods? A. Yeah. We stuck the rods in them so the concrete could bond in to the to that. Q. Did you use some kind of special concrete drill for that? A. Yes, ma'am. Q. Any other chipping or patching did you do there? A. Well, that that that type drill, it it it's just like a it it kind of
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that you remember, Mr. McGilberry?  A. We closed some — some docks in up in Laurel up at — let me see. They called it — up here in Hoy, Mississippi. It's called Hoy, but that's — that's where we did the job at.  Q. Heart?  A. Hoy.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods? A. Yeah. We stuck the rods in them so the concrete could bond in to the to that. Q. Did you use some kind of special concrete drill for that? A. Yes, ma'am. Q. Any other chipping or patching did you do there? A. Well, that that that type drill, it it it's just like a it it kind of make noise like a chipping gun, but it's it be,
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that you remember, Mr. McGilberry?  A. We closed some — some docks in up in Laurel up at — let me see. They called it — up here in Hoy, Mississippi. It's called Hoy, but that's — that's where we did the job at.  Q. Heart?  A. Hoy.  Q. Hoy?	2 3 4.5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods? A. Yeah. We stuck the rods in them so the concrete could bond in to the to that. Q. Did you use some kind of special concrete drill for that? A. Yes, ma'am. Q. Any other chipping or patching did you do there? A. Well, that that that type drill, it it it's just like a it it kind of make noise like a chipping gun, but it's it be, you know, pretty dusty when when when you
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that you remember, Mr. McGilberry?  A. We closed some — some docks in up in Laurel up at — let me see. They called it — up here in Hoy, Mississippi. It's called Hoy, but that's — that's where we did the job at.  Q. Heart?  A. Hoy.  Q. Hoy?  A. Hoy.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods? A. Yeah. We stuck the rods in them so the concrete could bond in to the to that. Q. Did you use some kind of special concrete drill for that? A. Yes, ma'am. Q. Any other chipping or patching did you do there? A. Well, that that that type drill, it it it's just like a it it kind of make noise like a chipping gun, but it's it be, you know, pretty dusty when when when you drill it.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that you remember, Mr. McGilberry?  A. We closed some — some docks in up in Laurel up at — let me see. They called it — up here in Hoy, Mississippi. It's called Hoy, but that's — that's where we did the job at.  Q. Heart?  A. Hoy.  Q. Hoy?  A. Hoy.  Q. H-O-Y?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods? A. Yeah. We stuck the rods in them so the concrete could bond in to the to that. Q. Did you use some kind of special concrete drill for that? A. Yes, ma'am. Q. Any other chipping or patching did you do there? A. Well, that that that type drill, it it it's just like a it it kind of make noise like a chipping gun, but it's it be, you know, pretty dusty when when when you drill it. Q. Okay. You were drilling the concrete
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that you remember, Mr. McGilberry?  A. We closed some — some docks in up in Laurel up at — let me see. They called it — up here in Hoy, Mississippi. It's called Hoy, but that's — that's where we did the job at.  Q. Heart?  A. Hoy.  Q. Hoy?  A. Hoy.  Q. H-O-Y?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods? A. Yeah. We stuck the rods in them so the concrete could bond in to the — to that. Q. Did you use some kind of special concrete drill for that? A. Yes, ma'am. Q. Any other chipping or patching did you do there? A. Well, that — that — that type drill, it — it — it's just like a — it — it kind of make noise like a chipping gun, but it's — it be, you know, pretty dusty when — when — when you drill it. Q. Okay. You were drilling the concrete that you had poured or —
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that you remember, Mr. McGilberry?  A. We closed some — some docks in up in Laurel up at — let me see. They called it — up here in Hoy, Mississippi. It's called Hoy, but that's — that's where we did the job at.  Q. Heart?  A. Hoy.  Q. Hoy?  A. Hoy.  Q. H-O-Y?  A. I guess. It's a little small community	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods? A. Yeah. We stuck the rods in them so the concrete could bond in to the to that. Q. Did you use some kind of special concrete drill for that? A. Yes, ma'am. Q. Any other chipping or patching did you do there? A. Well, that that that type drill, it it it's just like a it it kind of make noise like a chipping gun, but it's it be, you know, pretty dusty when when when you drill it. Q. Okay. You were drilling the concrete
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. A lot of time I went to job to job when I went because the way I work. And he always take me to job to job, and they just hire people from somewhere else. And I know what to do. And we didn't have to take the whole crew with us. We always hire people off of the streets and stuff.  A. So you were kind of his right-hand man. He took you and then he would hire people whenever he got to a location?  A. Sometimes.  Q. Okay. What was the next job site that you remember, Mr. McGilberry?  A. We closed some — some docks in up in Laurel up at — let me see. They called it — up here in Hoy, Mississippi. It's called Hoy, but that's — that's where we did the job at.  Q. Heart?  A. Hoy.  Q. Hoy?  A. Hoy.  Q. H-O-Y?  A. I guess. It's a little small community home.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. I'm not for sure how many trucks came. Q. Did you mix any of your own concrete at Hoy? A. No, ma'am. Q. Did you do any chipping at Hoy? A. We drilled some holes with a drill and stuck rods in them. Q. Stuck rods? A. Yeah. We stuck the rods in them so the concrete could bond in to the to that. Q. Did you use some kind of special concrete drill for that? A. Yes, ma'am. Q. Any other chipping or patching did you do there? A. Well, that that that type drill, it it it's just like a it it kind of make noise like a chipping gun, but it's it be, you know, pretty dusty when when when you drill it. Q. Okay. You were drilling the concrete that you had poured or A. Yes, ma'am.

	Page 8	9	Page 9
1		1	to to be quick. Okay?
2	·	2	A. Okay.
3		3	Q. Okay. I want to ask you just now about
4	110 Mar no. That are conclude we	4	
5	1	5	A. Yes, ma'am.
6	The state of the s	6	Q. I understood from my notes that you
7	Berrauly to pour the contents in alcic.	7	don't know who the supplier of the pot was. But
8	C. and John annied this old collectic Wild bill	8	do you know if Tom Pittman owned the pot or if he
9	1 1	9	rented the pot?
10		10	
11		11	And I apologize. Did you state on
12	· · · · · · · · · · · · · · · · · · ·	12	record who you represented?
13	Ç	13	
14	C - S - S - M - MAN - LAD JOO WILL LION, MAKE	14	No.
15		15	MR. FOXWORTH:
16	· - · · · · · · · · · · · · · ·	16	If you would,
17	C y white files pourcu	17	•
18	at the docks on the docks, did you do any	-18	Sure. Air Liquide, Big 3, Sanstorm,
19	<b>1</b> 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	19	Survivair, Rental Service Corporation.
20	A. I'm not for sure.	20	MR. FOXWORTH:
21	Q. Okay. Do you remember any more job	21	Okay.
22	sites?	22	MS. WILLIAMS:
23	A. Yes, ma'am.	23	Q. Do you remember my question?
24	Q. Okay. I want to go back. I just	24	A. I'm not for sure who - who he rented
25	forgot to ask you. With Tom Pittman in Heidelberg	25	it from or who it whether it was his or not.
-		-	
	Page 90		Page 92
1	at the gym and at the grocery store, did you mix	1	Q. You don't know if it was owned or
2	any of your own concrete at either of those	2	rented?
3	places?	3	A. No, ma'am.
4	A. On the places that we had to repatch,	4	Q. Okay. Now, let me ask you this. From
5	we we remixed some.	5	your product ID list or your fact sheet that I had
6	Q. Would that be at the gym or the grocery	6	a chance to look at this morning, I noted that you
7	store?	7	identified Sanstorm under your work at Torn
8	A. The grocery store.	8	Pittman. What do you associate the name Sanstorm
9	Q. At the grocery store. Do you know who	9	with, or do you associate it with any product?
10	supplied the materials to mix that concrete?	10	A. Sanstorm, that was the - the
11	A. I'm not for sure.	11	sandblasting bags.
12	Q. And then at the shopping center in	12	Q. I'm sorry. Say that again.
13	Collins, did you mix any concrete there?	13	A. Sandblasting.
14	A. I don't know.	14	Q. Okay. But what piece of equipment or
15	MS. LEE:	15	what type of material do you associate the name
16	If that's all the job sites you	16	Sanstorm with with regard to sandblasting?
17	remember, Mr. McGilberry, then that is all the	17	A. It was on the bag.
18	questions I have.	18	Q. On the bag?
19	EXAMINATION	19	A. Uh-huh.
20	BY MS. WILLIAMS:	20	Q. Okay. Let me move now to your time at
21	Q. Good afternoon, Mr. McGilberry. My	21	Gordon Myrick.
22	name is Melissa Williams, and I represent several	22	A. Yes, ma'am.
23	of the defendants in this case. I have a couple	23	Q. Okay? I believe you testified earlier
24	of questions for you today about a few different	24	that Gordon Myrick had rented a pot from Walker
25	things. And I'm going to try to isolate them	25	Jones?
24 25	of questions for you today about a few different things. And I'm going to try to isolate them	24	that Gordon Myrick had rented a pot from Walke

Γ	Page 9:	,	
1	A. Yes, ma'am.		Page 95
2	•	1 2	Q. Okay. When you talked about the air
3	a pot from Walker Jones?	3	compressor earlier A. Yes, ma'am.
4	A. That one time I know of.	4	
5	Q. One occasion?	5	Q from Walker Jones, was that
6	A. Yes.	6	purchased or rented from Walker Jones?  A. I'm not for sure.
7	Q. And how do you know that it was Walker	7	
8	Jones that Gordon Myrick rented the pot from?	8	Q. The items that you just listed, I'm
9	A. That's the only place I know he rented	9	going to just call them out one by one and ask you
10	equipment from, Walker Jones.	10	if you know if they were rented or purchased. The
11	Q. Okay. While you were at Gordon Myrick?		packer for the dirt, was that rented or purchased from Walker Jones?
12	A. Yes, ma'am.	12	
13	Q. Okay. And I understand that answer,	ſ	A. Rented.
14	but let me just ask this question. How do you	13	Q. The jacks?
15	know that it was Walker Jones? How did you first	14	A. Rented.
16	come to know it was Walker Jones that you rented		Q. Chipping guns?
17	the equipment from or that Gordon Myrick did?	16	A. Rented.
18	MR. FOXWORTH:	17	Q. Air lines?
19		18	A. Rented.
20	I'm going to object. Asked and answered.	19	Q. Drill bits?
21	MS. WILLIAMS:	20	A. Rented.
22	I understand that he knows that's what	21	Q. Backhoes?
23		22	A. Rented.
24	it was, but I'm just trying to find out how he knew.	23	Q. Saws?
25		24	A. Rented.
25	Q. If you know. If you know, if you knew.	25	Q. How often did Gordon Myrick rent or
	Page 94		Page 96
1	A. Like I said a while ago, that's	1	purchase equipment and materials from Walker
2	that's the only place I know we got equipment	2	Jones, if you know?
3	from.	3	A. Now, what was the question?
4	Q. Okay.	4	MS. WILLIAMS:
5	A. That's the best I can do.	5	What was the question?
6	Q. Okay. That's all I'm asking for.	6	(Whereupon court reporter read back the
7	That's all I'm asking for. Let me ask you a	7	last question.)
8	little bit about the equipment specifically that	8	MR. FOXWORTH:
9	Gordon Myrick got from Walker Jones. Okay?	9	Don't guess. But if you know, you
10	Earlier I heard you talk about air compressors,	10	know.
11	pots, sand and dust masks. Is there any other	11	MS. WILLIAMS:
12	equipment that was purchased from Walker Jones?	12	Q. Once a month?
13	<ol> <li>A. Chipping guns. Air lines.</li> </ol>	13	A. No. Huh-uh.
14	Q. Wait. You said air lines?	14	Q. Is it more than once a month or less
15	A. Yes, ma'am.	15	than once a month?
16	Q. Okay.	16	A. Sometimes twice a week. The man come
17	A. Drill bits.	17	by.
18	Q. Anything else?	18	Q. Okay. That's my next question. Did
19	A. Backhoes. Saws. Different kind of	19	you ever go to Walker Jones to rent equipment for
20	jacks that we needed.	20	Gordon Myrick?
21	Q. Do you remember specifically the types	21	A. No.
22	of jacks?	22	Q. Did you ever go to Walker Jones to
23	A. No.	23	purchase equipment for Gordon Myrick?
24	Q. Okay. Is that it?	24	A. No.
25	A. Packer, what you pack the dirt with.	25	Q. Okay. Again, while you worked at

Γ			
	Page S	ļ.	Page 99
1	Gordon Myrick, you talked about excuse me. Or	1 1	A. I was an attendant,
2		1 2	
3		3	2 110 11 1011g 1743
4		4	
5			
6		5	- J
7	MS. WILLIAMS:	6	
1		7	The state of the s
8	Yes.	8	me how long it was?
9	MR. FOXWORTH:	9	MR. FOXWORTH:
10	Why don't you read on his fact sheet	10	
11	what what it's listed as?	11	you.
12	MS. WILLIAMS:	12	
13	Well, didn't he fill out his fact	13	
14	sheet?	14	1.1
15	MR. FOXWORTH:	1	
16		15	, , , , , , , , , , , , , , , , ,
17	With the help of me.	16	MS. WILLIAMS:
	MS. WILLIAMS:	17	Yes.
18	I don't know where it is in here. If	18	MR. FOXWORTH:
19	you want to find it. But before he looks, I would	19	Asked and answered.
20	like to know if it was the same product, Sanstorm.	20	MS. WILLIAMS:
21	A. I don't know if it was the same one	21	Let's go off the record for a minute.
22	that we used at Tom Pittman. I don't know.	22	VIDEO SPECIALIST:
23	MS. WILLIAMS:	23	
24	Q. Okay. When you hear the name Sanstorm	24	Off the record. The time is 1:13.
25	at Gordon Myrick, what do you associate it with?	1	(Off the record.)
L	Soldon Highlon, what do you associate it will!	25	VIDEO SPECIALIST:
			i
	Page 98		Page 100
1	MS. WILLIAMS:	1	Page 100  Back on record. The time is 1:13
1 2		1	Back on record. The time is 1:13.
i	MS. WILLIAMS:	2	Back on record. The time is 1:13. MS. WILLIAMS:
2	MS. WILLIAMS:  Before he looks.	2 3	Back on record. The time is 1:13.  MS. WILLIAMS:  That's all the questions that I have
2	MS. WILLIAMS:  Before he looks.  A. What do I associate it with?	2 3 4	Back on record. The time is 1:13.  MS. WILLIAMS:  That's all the questions that I have for you today. I appreciate your time.
2 3 4	MS. WILLIAMS:  Before he looks.  A. What do I associate it with?  Q. Yes.  MR. FOXWORTH:	2 3 4 5	Back on record. The time is 1:13.  MS. WILLIAMS:  That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH:
2 3 4 5 6	MS. WILLIAMS:  Before he looks.  A. What do I associate it with?  Q. Yes.  MR. FOXWORTH:  He doesn't understand your question.	2 3 4 5 6	Back on record. The time is 1:13.  MS. WILLIAMS:  That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH:  Who's next?
2 3 4 5 6 7	MS. WILLIAMS:  Before he looks.  A. What do I associate it with?  Q. Yes.  MR. FOXWORTH:  He doesn't understand your question.  MS. WILLIAMS:	2 3 4 5 6 7	Back on record. The time is 1:13.  MS. WILLIAMS:  That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH:  Who's next?  EXAMINATION
2 3 4 5 6 7 8	MS. WILLIAMS:  Before he looks.  A. What do I associate it with?  Q. Yes.  MR. FOXWORTH:  He doesn't understand your question.  MS. WILLIAMS:  I'll rephrase it.	2 3 4 5 6 7 8	Back on record. The time is 1:13.  MS. WILLIAMS: That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH: Who's next? EXAMINATION BY MS. WALLACE:
2 3 4 5 6 7 8 9	MS. WILLIAMS:  Before he looks.  A. What do I associate it with?  Q. Yes.  MR. FOXWORTH:  He doesn't understand your question.  MS. WILLIAMS:  I'll rephrase it.  Q. What product or piece of equipment do	2 3 4 5 6 7 8 9	Back on record. The time is 1:13.  MS. WILLIAMS: That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH: Who's next? EXAMINATION BY MS. WALLACE: Q. Mr. McGilberry, my name is Kimberly
2 3 4 5 6 7 8 9	MS. WILLIAMS: Before he looks. A. What do I associate it with? Q. Yes. MR. FOXWORTH: He doesn't understand your question. MS. WILLIAMS: I'll rephrase it. Q. What product or piece of equipment do you think of when you hear the name Sanstorm while	2 3 4 5 6 7 8 9	Back on record. The time is 1:13.  MS. WILLIAMS: That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH: Who's next? EXAMINATION BY MS. WALLACE: Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.
2 3 4 5 6 7 8 9 10	MS. WILLIAMS: Before he looks. A. What do I associate it with? Q. Yes. MR. FOXWORTH: He doesn't understand your question. MS. WILLIAMS: I'll rephrase it. Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick?	2 3 4 5 6 7 8 9 10	Back on record. The time is 1:13.  MS. WILLIAMS: That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH: Who's next? EXAMINATION  BY MS. WALLACE: Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE:
2 3 4 5 6 7 8 9 10 11	MS. WILLIAMS: Before he looks. A. What do I associate it with? Q. Yes. MR. FOXWORTH: He doesn't understand your question. MS. WILLIAMS: I'll rephrase it. Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick? MR. FOXWORTH:	2 3 4 5 6 7 8 9 10 11 12	Back on record. The time is 1:13.  MS. WILLIAMS: That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH: Who's next? EXAMINATION  BY MS. WALLACE: Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE: Can I see his fact sheet, John?
2 3 4 5 6 7 8 9 10 11 12 13	MS. WILLIAMS:  Before he looks.  A. What do I associate it with?  Q. Yes.  MR. FOXWORTH:  He doesn't understand your question.  MS. WILLIAMS:  I'll rephrase it.  Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick?  MR. FOXWORTH:  She's talking about everything from	2 3 4 5 6 7 8 9 10 11 12 13	Back on record. The time is 1:13.  MS. WILLIAMS: That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH: Who's next? EXAMINATION  BY MS. WALLACE: Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE: Can I see his fact sheet, John?  MR. FOXWORTH:
2 3 4 5 6 7 8 9 10 11 12 13	MS. WILLIAMS:  Before he looks.  A. What do I associate it with?  Q. Yes.  MR. FOXWORTH:  He doesn't understand your question.  MS. WILLIAMS:  I'll rephrase it.  Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick?  MR. FOXWORTH:  She's talking about everything from compressors—	2 3 4 5 6 7 8 9 10 11 12	Back on record. The time is 1:13.  MS. WILLIAMS:    That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH:    Who's next?    EXAMINATION  BY MS. WALLACE:    Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE:    Can I see his fact sheet, John?  MR. FOXWORTH:    Yes, you may. Since Will stole the one
2 3 4 5 6 7 8 9 10 11 12 13 14 15	MS. WILLIAMS:  Before he looks.  A. What do I associate it with?  Q. Yes.  MR. FOXWORTH:  He doesn't understand your question.  MS. WILLIAMS:  I'll rephrase it.  Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick?  MR. FOXWORTH:  She's talking about everything from compressors —  MS. WILLIAMS:	2 3 4 5 6 7 8 9 10 11 12 13	Back on record. The time is 1:13.  MS. WILLIAMS:    That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH:    Who's next?    EXAMINATION  BY MS. WALLACE:    Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE:    Can I see his fact sheet, John?  MR. FOXWORTH:    Yes, you may. Since Will stole the one
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	MS. WILLIAMS: Before he looks. A. What do I associate it with? Q. Yes. MR. FOXWORTH: He doesn't understand your question. MS. WILLIAMS: I'll rephrase it. Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick? MR. FOXWORTH: She's talking about everything from compressors MS. WILLIAMS: Uh-huh.	2 3 4 5 6 7 8 9 10 11 12 13	Back on record. The time is 1:13.  MS. WILLIAMS: That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH: Who's next? EXAMINATION  BY MS. WALLACE: Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE: Can I see his fact sheet, John?  MR. FOXWORTH:
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	MS. WILLIAMS:  Before he looks.  A. What do I associate it with?  Q. Yes.  MR. FOXWORTH:  He doesn't understand your question.  MS. WILLIAMS:  I'll rephrase it.  Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick?  MR. FOXWORTH:  She's talking about everything from compressors —  MS. WILLIAMS:	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Back on record. The time is 1:13.  MS. WILLIAMS:    That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH:    Who's next?    EXAMINATION  BY MS. WALLACE:    Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE:    Can I see his fact sheet, John?  MR. FOXWORTH:    Yes, you may. Since Will stole the one from yesterday. It's a 3M tactic.  MS. WALLACE:
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MS. WILLIAMS: Before he looks. A. What do I associate it with? Q. Yes. MR. FOXWORTH: He doesn't understand your question. MS. WILLIAMS: I'll rephrase it. Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick? MR. FOXWORTH: She's talking about everything from compressors — MS. WILLIAMS: Uh-huh. MR. FOXWORTH: bags of sand, to pots, to whatever.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Back on record. The time is 1:13.  MS. WILLIAMS: That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH: Who's next? EXAMINATION  BY MS. WALLACE: Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE: Can I see his fact sheet, John?  MR. FOXWORTH: Yes, you may. Since Will stole the one from yesterday. It's a 3M tactic.  MS. WALLACE: Q. Mr. McGilberry, I have not heard you
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MS. WILLIAMS: Before he looks. A. What do I associate it with? Q. Yes. MR. FOXWORTH: He doesn't understand your question. MS. WILLIAMS: I'll rephrase it. Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick? MR. FOXWORTH: She's talking about everything from compressors MS. WILLIAMS: Uh-huh.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Back on record. The time is 1:13.  MS. WILLIAMS:    That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH:    Who's next?    EXAMINATION  BY MS. WALLACE:    Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE:    Can I see his fact sheet, John?  MR. FOXWORTH:    Yes, you may. Since Will stole the one from yesterday. It's a 3M tactic.  MS. WALLACE:    Q. Mr. McGilberry, I have not heard you mention Lone Star Industries or Texblast either
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MS. WILLIAMS:  Before he looks.  A. What do I associate it with?  Q. Yes.  MR. FOXWORTH:  He doesn't understand your question.  MS. WILLIAMS:  I'll rephrase it.  Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick?  MR. FOXWORTH:  She's talking about everything from compressors  MS. WILLIAMS:  Uh-huh.  MR. FOXWORTH:  - bags of sand, to pots, to whatever.  MS. WILLIAMS:	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Back on record. The time is 1:13.  MS. WILLIAMS:    That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH:    Who's next?    EXAMINATION  BY MS. WALLACE:    Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE:    Can I see his fact sheet, John?  MR. FOXWORTH:    Yes, you may. Since Will stole the one from yesterday. It's a 3M tactic.  MS. WALLACE:    Q. Mr. McGilberry, I have not heard you mention Lone Star Industries or Texblast either yesterday or today. But I see that it is
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	MS. WILLIAMS:  Before he looks.  A. What do I associate it with?  Q. Yes.  MR. FOXWORTH:  He doesn't understand your question.  MS. WILLIAMS:  I'll rephrase it.  Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick?  MR. FOXWORTH:  She's talking about everything from compressors  MS. WILLIAMS:  Uh-huh.  MR. FOXWORTH:  - bags of sand, to pots, to whatever.  MS. WILLIAMS:  Q. If you don't know, that's okay, too.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Back on record. The time is 1:13.  MS. WILLIAMS:    That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH:    Who's next?    EXAMINATION  BY MS. WALLACE:    Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE:    Can I see his fact sheet, John?  MR. FOXWORTH:    Yes, you may. Since Will stole the one from yesterday. It's a 3M tactic.  MS. WALLACE:    Q. Mr. McGilberry, I have not heard you mention Lone Star Industries or Texblast either yesterday or today. But I see that it is indicated on your fact sheet. Is that something
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	MS. WILLIAMS:  Before he looks.  A. What do I associate it with?  Q. Yes.  MR. FOXWORTH:  He doesn't understand your question.  MS. WILLIAMS:  I'll rephrase it.  Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick?  MR. FOXWORTH:  She's talking about everything from compressors —  MS. WILLIAMS:  Uh-huh.  MR. FOXWORTH:  bags of sand, to pots, to whatever.  MS. WILLIAMS:  Q. If you don't know, that's okay, too.  You can just tell me that.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Back on record. The time is 1:13.  MS. WILLIAMS:    That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH:    Who's next?    EXAMINATION  BY MS. WALLACE:    Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE:    Can I see his fact sheet, John?  MR. FOXWORTH:    Yes, you may. Since Will stole the one from yesterday. It's a 3M tactic.  MS. WALLACE:    Q. Mr. McGilberry, I have not heard you mention Lone Star Industries or Texblast either yesterday or today. But I see that it is indicated on your fact sheet. Is that something that you recall working with or around, or is that
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	MS. WILLIAMS: Before he looks. A. What do I associate it with? Q. Yes. MR. FOXWORTH: He doesn't understand your question. MS. WILLIAMS: I'll rephrase it. Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick? MR. FOXWORTH: She's talking about everything from compressors — MS. WILLIAMS: Uh-huh. MR. FOXWORTH: - bags of sand, to pots, to whatever. MS. WILLIAMS: Q. If you don't know, that's okay, too. You can just tell me that. A. I'm not for sure.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Back on record. The time is 1:13.  MS. WILLIAMS: That's all the questions that I have for you today. I appreciate your time. MR. FOXWORTH: Who's next? EXAMINATION BY MS. WALLACE: Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries. MS. WALLACE: Can I see his fact sheet, John? MR. FOXWORTH: Yes, you may. Since Will stole the one from yesterday. It's a 3M tactic. MS. WALLACE: Q. Mr. McGilberry, I have not heard you mention Lone Star Industries or Texblast either yesterday or today. But I see that it is indicated on your fact sheet. Is that something that you recall working with or around, or is that a mistake on your fact sheet?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	MS. WILLIAMS: Before he looks. A. What do I associate it with? Q. Yes. MR. FOXWORTH: He doesn't understand your question. MS. WILLIAMS: I'll rephrase it. Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick? MR. FOXWORTH: She's talking about everything from compressors MS. WILLIAMS: Uh-huh. MR. FOXWORTH: bags of sand, to pots, to whatever. MS. WILLIAMS: Q. If you don't know, that's okay, too. You can just tell me that. A. I'm not for sure. Q. Okay. A few moments ago I understood	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Back on record. The time is 1:13.  MS. WILLIAMS: That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH: Who's next? EXAMINATION  BY MS. WALLACE: Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE: Can I see his fact sheet, John?  MR. FOXWORTH: Yes, you may. Since Will stole the one from yesterday. It's a 3M tactic.  MS. WALLACE: Q. Mr. McGilberry, I have not heard you mention Lone Star Industries or Texblast either yesterday or today. But I see that it is indicated on your fact sheet. Is that something that you recall working with or around, or is that a mistake on your fact sheet?  A. Well, I can't say. I would have to see
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	MS. WILLIAMS: Before he looks. A. What do I associate it with? Q. Yes. MR. FOXWORTH: He doesn't understand your question. MS. WILLIAMS: I'll rephrase it. Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick? MR. FOXWORTH: She's talking about everything from compressors MS. WILLIAMS: Uh-huh. MR. FOXWORTH: - bags of sand, to pots, to whatever. MS. WILLIAMS: Q. If you don't know, that's okay, too. You can just tell me that. A. I'm not for sure. Q. Okay. A few moments ago I understood you to say that you blasted at at the Stringer	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Back on record. The time is 1:13.  MS. WILLIAMS:    That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH:    Who's next?    EXAMINATION  BY MS. WALLACE:    Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE:    Can I see his fact sheet, John?  MR. FOXWORTH:    Yes, you may. Since Will stole the one from yesterday. It's a 3M tactic.  MS. WALLACE:    Q. Mr. McGilberry, I have not heard you mention Lone Star Industries or Texblast either yesterday or today. But I see that it is indicated on your fact sheet. Is that something that you recall working with or around, or is that a mistake on your fact sheet?  A. Well, I can't say. I would have to see a picture of it, or it might have been just
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	MS. WILLIAMS: Before he looks. A. What do I associate it with? Q. Yes. MR. FOXWORTH: He doesn't understand your question. MS. WILLIAMS: I'll rephrase it. Q. What product or piece of equipment do you think of when you hear the name Sanstorm while you were employed at Gordon Myrick? MR. FOXWORTH: She's talking about everything from compressors MS. WILLIAMS: Uh-huh. MR. FOXWORTH: bags of sand, to pots, to whatever. MS. WILLIAMS: Q. If you don't know, that's okay, too. You can just tell me that. A. I'm not for sure. Q. Okay. A few moments ago I understood	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Back on record. The time is 1:13.  MS. WILLIAMS: That's all the questions that I have for you today. I appreciate your time.  MR. FOXWORTH: Who's next? EXAMINATION  BY MS. WALLACE: Q. Mr. McGilberry, my name is Kimberly Wallace. And I represent Lone Star Industries.  MS. WALLACE: Can I see his fact sheet, John?  MR. FOXWORTH: Yes, you may. Since Will stole the one from yesterday. It's a 3M tactic.  MS. WALLACE: Q. Mr. McGilberry, I have not heard you mention Lone Star Industries or Texblast either yesterday or today. But I see that it is indicated on your fact sheet. Is that something that you recall working with or around, or is that a mistake on your fact sheet?  A. Well, I can't say. I would have to see

Г			
	Page 10	)1	Page 10
	1 MR. FOXWORTH:	[ ]	MS. MUELLER:
	2 Could you show him the pictures? It		Is this the correct fact sheet, John?
	3 would probably help.	3	MR. FOXWORTH:
- 1	4 MS. WALLACE: 5 No. I didn't Did you?	4	and the one that will additionated
- 1	5 No, I didn't. Did you? 6 MR. FOXWORTH:	5	man productionary.
į		6	
1	7 Could you? 8 MS. WALLACE:	7	
l l		8	
	and a similate, I will.	9	and going to count now many thines my
î	- " Jour Die Here today, you don't	10	The state of the s
1	2 Lone Star	11	
1:	· · · · -	12 13	-3-10 and that with your chemes
1.		14	
1:	Z. Z	15	
10	remit bay. I dont you	16	a a series of cited annual for michili
11	if I can see a picture of it, you know, maybe I —	17	T C C May
18	I might have seen it or I worked with it or	18	MS. MUELLER:
19	whatever. I don't know.	19	
20		20	the state of the s
21	you?	21	mention any Empire products during your deposition today. Without looking at any pictures, can you
22	A. Not right now.	22	tell me that you ever worked with any Empire
23		23	products? Does the name sound familiar?
24	and the second less a numbers	24	A. The name mean a lot, but
25	VIDEO SPECIALIST:	25	Q. I understand.
$\vdash$		_	
	Page 102		Page 104
1	Off the record. The time is 1:15.	1	A. I don't
2	(Off the record.)	2	MR. FOXWORTH:
3	VIDEO SPECIALIST:	3	I know you get frustrated because we're
4 5	On the record. The time is 1:15.	4	on the second day. But just relax and answer the
5	MS. WALLACE:	5	questions. You want to take a break? Answer her
7	That's all the questions I have. Thank you.	6	question and we'll take a break. Ask him again.
8	MR. FOXWORTH:	7	MS. MUELLER:
9	Who's next?	8	Q. Do you remember ever working with any
10	EXAMINATION	9	products manufactured by Empire?
11	BY MS. MUELLER:	10 11	A. I don't remember.
12	Q. Good afternoon, Mr. McGilberry. My	12	Q. Okay.
13	name is Randy Mueller. And I represent Green	13	MS. MUELLER:
14	Brothers and Empire Abrasive Equipment	14	Do you want to take a break now and come back?
15	Corporation. And I've just got a couple of	15	MR. FOXWORTH:
16	questions for you. Earlier you were talking about	16	Take a short break and then come back.
17	a product called or you mentioned the name	17 -	MS. MUELLER:
18	Portland Cement. Is that a type of cement?	18	Okay.
19	A. Portland Cement?	19	VIDEO SPECIALIST:
20	Q. Yes.	20	Off the record. The time is 1:18.
21	A. Yes, that's a type of cement.	21	(Off the record.)
22	Q. Okay. So that is not like a building	22	VIDEO SPECIALIST:
23	supply store where you would go to buy cement?	23	Back on record. The time is 1:34.
24	^ ^!	24	MS. MUELLER:
25	Q. Okay.	25	Q. Mr. McGilberry, I've got a couple more
			7,1 vo got a couple more

Page 10		Page
1 questions for you. Yesterday you testified that	1 Do you have the r	_
2 while you worked for Tom Pittman, you wore a hood	2 it to him? Anyone?	oicture so we can show
3 on that one time where you sandblasted a little	3 A. Don't remember.	
4 bit?	4 MS. MUELLER:	
5 A. Uh-huh.	5 Q. Okay. And that's	f
<ol> <li>Q. You said that the hood was dark in</li> </ol>	6 sheet also identifies sever	al different line
7 color?	7 blasting machines, pots.	at different kinds of
8 A. Yes, ma'am.	8 deposition testimony voi	but during your
<ol> <li>Q. Do you remember if the hood was one</li> </ol>	<ul><li>deposition testimony, you</li><li>pots that you've ever work</li></ul>	ive only talked about to
10 color? Was it a solid color?	0 your fact sheet was filled	seu with or around. Wi
11 A. I think so.	looking through a picture	basis
<ol> <li>Q. Okay. And what do you consider to be</li> </ol>	2 A. Yes.	DOOK?
13 dark colors?		
14 A. Brown, green.	4 your fact sheet?	you used to fill out
15 Q. On your fact sheet, you've identified a	5 A. Yes.	
16 hood made by Empire that's red and blue. Would		hon von laal-steed
17 you think that would be a mistake since you just	7 picture book, did you see	hen you looked at the
18 testified that the hood was one color and it was	8 things? Some of them loo	an kinds of different
19 brown or green?	9 A. Yes.	keu alike, very similar?
20 A. Do what now?	Q. So the things that	OTO OT TIME & -4
<ol> <li>Q. Your fact sheet identifies a red and</li> </ol>	I sheet, you can't testify today	are on your fact
22 blue hood.	2 positive that that is the pro	ay man youre
23 MR. FOXWORTH:	with, but it just kind of loc	olog like its is the
Does it say red and blue on the fact	correct?	as like it, is that
25 sheet?	A. Kind of looks like	<b>:</b> +
1 MS. MUELLER:		Page i
· · · · · · · · · · · · · · · · · · ·	Q. Okay.	Page I
2 It does.	MS. MUELLER:	
2 It does. 3 MR. FOXWORTH:	MS. MUELLER: I believe that's all the	
2 It does. 3 MR. FOXWORTH: 4 It says red and blue?	MS. MUELLER: I believe that's all tigot. Thank you.	ne questions I've
2 It does. 3 MR. FOXWORTH: 4 It says red and blue? 5 MS. MUELLER:	MS. MUELLER: I believe that's all the got. Thank you. EXAMINAT	ne questions I've
2 It does. 3 MR. FOXWORTH: 4 It says red and blue? 5 MS. MUELLER: 6 It says red and blue.	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:	ne questions I've TON
2 It does. 3 MR. FOXWORTH: 4 It says red and blue? 5 MS. MUELLER: 6 It says red and blue. 7 MR. FOXWORTH:	MS. MUELLER: I believe that's all the got. Thank you. EXAMINAT BY MS. JONES: Q. Good afternoon, M.	ne questions I've TON Ir. McGilberry, My
2 It does. 3 MR. FOXWORTH: 4 It says red and blue? 5 MS. MUELLER: 6 It says red and blue. 7 MR. FOXWORTH: 8 Do you have a copy of the picture?	MS. MUELLER:  I believe that's all ti got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Moname is Paige Jones. I rep	ne questions I've TON Ir. McGilberry. My resent Parmalee
2 It does. 3 MR. FOXWORTH: 4 It says red and blue? 5 MS. MUELLER: 6 It says red and blue. 7 MR. FOXWORTH: 8 Do you have a copy of the picture? 9 MS. MUELLER:	MS. MUELLER: I believe that's all the got. Thank you. EXAMINAT BY MS. JONES: Q. Good afternoon, Mame is Paige Jones. I rep Industries and Pulmosan S	ne questions I've TON  Ir. McGilberry. My resent Parmalee afety Equipment
2 It does. 3 MR. FOXWORTH: 4 It says red and blue? 5 MS. MUELLER: 6 It says red and blue. 7 MR. FOXWORTH: 8 Do you have a copy of the picture? 9 MS. MUELLER: 0 No, I don't.	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Marme is Paige Jones. I reput Industries and Pulmosan S Corporation. I have some	ne questions I've TON  Ir. McGilberry. My resent Parmalee afety Equipment questions for you abou
2 It does. 3 MR. FOXWORTH: 4 It says red and blue? 5 MS. MUELLER: 6 It says red and blue. 7 MR. FOXWORTH: 8 Do you have a copy of the picture? 9 MS. MUELLER: 1 No, I don't. 1 Q. Would you say that that would be a	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Marane is Paige Jones. I repulation of the properties and Pulmosan S Corporation. I have some the hood that you wore at The source of the sou	ne questions I've  ION  Ir. McGilberry. My resent Parmalee afety Equipment questions for you about fom Pittman. Do you
It does.  MR. FOXWORTH:  It says red and blue?  MS. MUELLER:  It says red and blue.  MR. FOXWORTH:  Do you have a copy of the picture?  MS. MUELLER:  No, I don't.  Q. Would you say that that would be a mistake that you testified that the hood that you	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Moname is Paige Jones. I repulation of the hood that you wore at the hood that you wore at the hood if Mr. Pittman owned.	ne questions I've  ION  Ir. McGilberry. My resent Parmalee afety Equipment questions for you about fom Pittman. Do you
It does.  MR. FOXWORTH:  It says red and blue?  MS. MUELLER:  It says red and blue.  MR. FOXWORTH:  Do you have a copy of the picture?  MS. MUELLER:  No, I don't.  Q. Would you say that that would be a mistake that you testified that the hood that you wore was brown and green — brown or green and it was one color?	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Maname is Paige Jones. I repulation of the hood that you wore at the hood that you wore at the hood from somewhere?	ne questions I've  ION  Ir. McGilberry. My resent Parmalee afety Equipment questions for you about fom Pittman. Do you
It does.  MR. FOXWORTH:  It says red and blue?  MS. MUELLER:  It says red and blue.  MR. FOXWORTH:  Do you have a copy of the picture?  MS. MUELLER:  No, I don't.  Q. Would you say that that would be a mistake that you testified that the hood that you wore was brown and green — brown or green and it was one color?  A. I'm not for sure. I'm not — I'm	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Maname is Paige Jones. I repulation of the hood that you wore at the hood t	ne questions I've TON  Ir. McGilberry. My resent Parmalee afety Equipment questions for you abour fom Pittman. Do you If that hood or if it was
It does.  MR. FOXWORTH:  It says red and blue?  MS. MUELLER:  It says red and blue.  MR. FOXWORTH:  Do you have a copy of the picture?  MS. MUELLER:  No, I don't.  Q. Would you say that that would be a mistake that you testified that the hood that you wore was brown and green — brown or green and it was one color?  A. I'm not for sure. I'm not — I'm not — not for sure.	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Maname is Paige Jones. I reput Industries and Pulmosan S. Corporation. I have some the hood that you wore at Taknow if Mr. Pittman owner rented from somewhere?  A. I'm not for sure.  Q. Was the Heidelberg.	TON  If. McGilberry. My resent Parmalee afety Equipment questions for you about from Pittman. Do you it that hood or if it was a site where you used
It does.  MR. FOXWORTH:  It says red and blue?  MS. MUELLER:  It says red and blue.  MR. FOXWORTH:  Do you have a copy of the picture?  MS. MUELLER:  No, I don't.  Q. Would you say that that would be a mistake that you testified that the hood that you wore was brown and green — brown or green and it was one color?  A. I'm not for sure. I'm not — I'm not — not for sure.  Q. So you're not for sure if it was red	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Maname is Paige Jones. I repulation of the hold that you wore at the hood that you wore at the hood that you wore at the hood that you wore at the hold that you work the hold that you work the hold that you work that yo	TON  If. McGilberry. My resent Parmalee afety Equipment questions for you about from Pittman. Do you it that hood or if it was a site where you used
It does.  MR. FOXWORTH:  It says red and blue?  MS. MUELLER:  It says red and blue.  MR. FOXWORTH:  Do you have a copy of the picture?  MS. MUELLER:  No, I don't.  Q. Would you say that that would be a mistake that you testified that the hood that you wore was brown and green — brown or green and it was one color?  A. I'm not for sure. I'm not — I'm not — not for sure.  Q. So you're not for sure if it was red and blue, or you're not for sure it was brown and	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Moname is Paige Jones. I repulation of the hood that you wore at the hood t	TON  If. McGilberry. My resent Parmalee afety Equipment questions for you about from Pittman. Do you it that hood or if it was a site where you used
It does.  MR. FOXWORTH:  It says red and blue?  MS. MUELLER:  It says red and blue.  MR. FOXWORTH:  Do you have a copy of the picture?  MS. MUELLER:  No, I don't.  Q. Would you say that that would be a mistake that you testified that the hood that you wore was brown and green — brown or green and it was one color?  A. I'm not for sure. I'm not — I'm not — not for sure.  Q. So you're not for sure if it was red and blue, or you're not for sure it was brown and green — brown or green?	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Manare is Paige Jones. I repulation of the properties and Pulmosan S. Corporation. I have some the hood that you wore at the ho	TON  If. McGilberry. My resent Parmalee afety Equipment questions for you about from Pittman. Do you detail that hood or if it was g site where you used ou saw that hood on
It does.  MR. FOXWORTH:  It says red and blue?  MS. MUELLER:  It says red and blue.  MR. FOXWORTH:  Do you have a copy of the picture?  MS. MUELLER:  No, I don't.  Q. Would you say that that would be a mistake that you testified that the hood that you wore was brown and green — brown or green and it was one color?  A. I'm not for sure. I'm not — I'm not — not for sure.  Q. So you're not for sure if it was red and blue, or you're not for sure it was brown and green — brown or green?  A. Red and blue. Red and blue, I don't.	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Mame is Paige Jones. I reput Industries and Pulmosan S. Corporation. I have some the hood that you wore at the hood that you wo	TON  If. McGilberry. My resent Parmalee afety Equipment questions for you about from Pittman. Do you if that hood or if it was g site where you used ou saw that hood on
It does.  MR. FOXWORTH:  It says red and blue?  MS. MUELLER:  It says red and blue.  MR. FOXWORTH:  Do you have a copy of the picture?  MS. MUELLER:  No, I don't.  Q. Would you say that that would be a mistake that you testified that the hood that you wore was brown and green brown or green and it was one color?  A. I'm not for sure. I'm not I'm not not for sure.  Q. So you're not for sure if it was red and blue, or you're not for sure it was brown and green brown or green?  A. Red and blue. Red and blue, I don't.  Q. Okay. So you can't testify today that	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Maname is Paige Jones. I reput Industries and Pulmosan S. Corporation. I have some the hood that you wore at Taknow if Mr. Pittman owner rented from somewhere?  A. I'm not for sure.  Q. Was the Heidelberg it the only job site where you the premises?  A. Yes, ma'am.  Q. So that was the only used by anybody was on the	TON  If. McGilberry. My resent Parmalee afety Equipment questions for you about from Pittman. Do you if that hood or if it was g site where you used ou saw that hood on
It does.  MR. FOXWORTH:  It says red and blue?  MS. MUELLER:  It says red and blue.  MR. FOXWORTH:  Do you have a copy of the picture?  MS. MUELLER:  No, I don't.  Q. Would you say that that would be a mistake that you testified that the hood that you wore was brown and green brown or green and it was one color?  A. I'm not for sure. I'm not I'm not not for sure.  Q. So you're not for sure if it was red and blue, or you're not for sure if it was brown and green brown or green?  A. Red and blue. Red and blue, I don't.  Q. Okay. So you can't testify today that you wore a red and blue hood? You can't say that	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Maname is Paige Jones. I reput Industries and Pulmosan S. Corporation. I have some the hood that you wore at the hood that you wore.  Q. Was the Heidelberg it the only job site where you the premises?  A. Yes, ma'am.  Q. So that was the only used by anybody was on the A. That's the only	TON  If. McGilberry. My resent Parmalee afety Equipment questions for you about from Pittman. Do you if that hood or if it was g site where you used ou saw that hood on
It does.  MR. FOXWORTH:  It says red and blue?  MS. MUELLER:  It says red and blue.  MR. FOXWORTH:  Do you have a copy of the picture?  MS. MUELLER:  No, I don't.  Q. Would you say that that would be a mistake that you testified that the hood that you wore was brown and green brown or green and it was one color?  A. I'm not for sure. I'm not I'm not not for sure.  Q. So you're not for sure if it was red and blue, or you're not for sure it was brown and green brown or green?  A. Red and blue. Red and blue, I don't.  Q. Okay. So you can't testify today that you wore a red and blue hood? You can't say that you did because you don't remember; is that	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Manane is Paige Jones. I reput Industries and Pulmosan S. Corporation. I have some the hood that you wore at the hood that you wore.  Q. Was the Heidelberg it the only job site where you the premises?  A. Yes, ma'am.  Q. So that was the only used by anybody was on the A. That's the only that you know?	TON  If. McGilberry. My resent Parmalee afety Equipment questions for you about from Pittman. Do you if that hood or if it was g site where you used ou saw that hood on
It does.  MR. FOXWORTH:  It says red and blue?  MS. MUELLER:  It says red and blue.  MR. FOXWORTH:  Do you have a copy of the picture?  MS. MUELLER:  No, I don't.  Q. Would you say that that would be a mistake that you testified that the hood that you wore was brown and green — brown or green and it was one color?  A. I'm not for sure. I'm not — I'm not — not for sure.  Q. So you're not for sure if it was red and blue, or you're not for sure it was brown and green — brown or green?  A. Red and blue. Red and blue, I don't.  Q. Okay. So you can't testify today that you wore a red and blue hood? You can't say that	MS. MUELLER:  I believe that's all the got. Thank you.  EXAMINAT BY MS. JONES:  Q. Good afternoon, Manare is Paige Jones. I repulation of the hood that you wore at the hood that you wore.  Q. Was the Heidelberg it the only job site where you the premises?  A. Yes, ma'am.  Q. So that was the only used by anybody was on the A. That's the only  Q that you know?	TON  If. McGilberry. My resent Parmalee afety Equipment questions for you about from Pittman. Do you detail that hood or if it was gesite where you used ou saw that hood on y time it was ever at site —

	Page 10	9	Page
1	A. Yeah, I know what you mean. Air vents.	1	1 MS. JONES:
2	I'm not for sure.	2	Okay.
3	Q. You're not sure. Okay. The faceplate	3	
4	that you looked out of	4	4 Just don't beat the horse.
5	A. Yes, ma'am.	5	5 MS. JONES:
6	Q did it have a screen or any sort of	6	6 Okay.
7	mesh screen type looking thing in in front of	7	7 Q. Could I see your chin?
8	or behind the the glass?	8	
9	A. What you mean, holding it on or just in	9	C
10   11	front of it or	10	
12	Q. Either. Was there any sort of mesh	11	t = " " The state of the state
13	type material in front of or behind the glass or plastic?	12	What I mean by a bill, like a bill on a baseball
14	A. Not as I remember.	13	•
15		14	
16	Q. Okay. Did you wear anything underneath the hood? I know you testified you wore a	15	C
17	hasehali can But did you wore anything	16	- 1
18	baseball cap. But did you wear anything over your mouth or your nose underneath that hood?	1	2 3 3 World to 11000 tille Was
19	A. I don't believe I took my dust mask	18	• • • • • • • • • • • • • • • • • • • •
20	off.	19 20	
21	Q. Okay. So you think you may have worn	21	C TO THE WAR PLOUD WE TOTAL
22	your dust mask underneath there?	22	, and the state of the world,
23	A. Yes, ma'am.	23	
24	Q. Okay. Did that hood have a drawstring	24	
25	where you could secure it around your neck, if you	25	
	Page 110	ł	
	Page 110		Page I
1.	remember?	1	Page 1 That's all I have.
2	remember?  A. I don't remember.	1 2	
2	remember? A. I don't remember. Q. Okay. Do you remember if it had a	Į.	That's all I have. EXAMINATION BY MR. KINARD:
2 3 4	remember?  A. I don't remember.  Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you	2 3 4	That's all I have.  EXAMINATION  BY MR. KINARD:  Q. For the record, my name is John Kinard.
2 3 4 5	remember?  A. I don't remember.  Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood?	2 3 4 5	That's all I have.  EXAMINATION  BY MR. KINARD:  Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott
2 3 4 5 6	remember?  A. I don't remember.  Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood?  A. No, ma'am. Don't remember that.	2 3 4 5 6	That's all I have.  EXAMINATION  BY MR. KINARD:  Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protective
2 3 4 5 6 7	remember?  A. I don't remember.  Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood?  A. No, ma'am. Don't remember that.  Q. You don't remember. Okay. I know you	2 3 4 5 6 7	That's all I have.  EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today?
2 3 4 5 6 7 8	remember?  A. I don't remember.  Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood?  A. No, ma'am. Don't remember that.  Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was	2 3 4 5 6 7 8	That's all I have.  EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine.
2 3 4 5 6 7 8 9	remember?  A. I don't remember.  Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood?  A. No, ma'am. Don't remember that.  Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I	2 3 4 5 6 7 8 9	That's all I have.  EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there?
2 3 4 5 6 7 8 9	remember?  A. I don't remember.  Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood?  A. No, ma'am. Don't remember that.  Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside	2 3 4 5 6 7 8 9	That's all I have.  EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes.
2 3 4 5 6 7 8 9	remember?  A. I don't remember.  Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood?  A. No, ma'am. Don't remember that.  Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside of the hood was the same color as the outside?	2 3 4 5 6 7 8 9 10	That's all I have.  EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes. Q. Good. I notice you come to and fro
2 3 4 5 6 7 8 9 10	A. I don't remember. Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood? A. No, ma'am. Don't remember that. Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside of the hood was the same color as the outside? A. I'm not for sure.	2 3 4 5 6 7 8 9 10 11	That's all I have.  EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes. Q. Good. I notice you come to and fro with the aid of a cane a little bit. Is that to
2 3 4 5 6 7 8 9 10 11 12	remember?  A. I don't remember.  Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood?  A. No, ma'am. Don't remember that.  Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside of the hood was the same color as the outside?  A. I'm not for sure.  Q. If you were wearing the hood and I was	2 3 4 5 6 7 8 9 10 11 12 13	That's all I have. EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes. Q. Good. I notice you come to and fro with the aid of a cane a little bit. Is that to help you out with those weak knees you were
2 3 4 5 6 7 8 9 10 11 11 12	A. I don't remember. Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood? A. No, ma'am. Don't remember that. Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside of the hood was the same color as the outside? A. I'm not for sure.	2 3 4 5 6 7 8 9 10 11 12 13	That's all I have. EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes. Q. Good. I notice you come to and fro with the aid of a cane a little bit. Is that to help you out with those weak knees you were telling us about?
2 3 4 5 6 7 8 9 10 11 12 13 4 4 5 6	remember?  A. I don't remember.  Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood?  A. No, ma'am. Don't remember that.  Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside of the hood was the same color as the outside?  A. I'm not for sure.  Q. If you were wearing the hood and I was looking at you, could I see your chin?  MR. FOXWORTH:	2 3 4 5 6 7 8 9 10 11 12 13 14 15	That's all I have.  EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes. Q. Good. I notice you come to and fro with the aid of a cane a little bit. Is that to help you out with those weak knees you were telling us about? A. Yeah. Kind of help me, you know, stand
2 3 4 5 6 7 8 9 10 11 12 3 4 5 6 7	A. I don't remember. Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood? A. No, ma'am. Don't remember that. Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside of the hood was the same color as the outside? A. I'm not for sure. Q. If you were wearing the hood and I was looking at you, could I see your chin? MR. FOXWORTH: Objection. Asked and answered.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	That's all I have. EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes. Q. Good. I notice you come to and fro with the aid of a cane a little bit. Is that to help you out with those weak knees you were telling us about? A. Yeah. Kind of help me, you know, stand up a little straight.
2 3 4 5 6 7 8 9 10 11 12 13 4 4 5 6 7 8 8 9	A. I don't remember. Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood? A. No, ma'am. Don't remember that. Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside of the hood was the same color as the outside? A. I'm not for sure. Q. If you were wearing the hood and I was looking at you, could I see your chin? MR. FOXWORTH: Objection. Asked and answered. Yesterday he described the size of the faceplate. MS. JONES:	2 3 4 5 6 7 8 9 10 11 12 13 14 15	That's all I have.  EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes. Q. Good. I notice you come to and fro with the aid of a cane a little bit. Is that to help you out with those weak knees you were telling us about? A. Yeah. Kind of help me, you know, stand up a little straight. Q. Okay. You're a little unstable on your
2 3 4 5 6 7 8 9 10 11 2 3 4 5 6 7 8 9	A. I don't remember. Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood? A. No, ma'am. Don't remember that. Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside of the hood was the same color as the outside? A. I'm not for sure. Q. If you were wearing the hood and I was looking at you, could I see your chin? MR. FOXWORTH: Objection. Asked and answered. Yesterday he described the size of the faceplate. MS. JONES: Are you instructing him not to answer?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	That's all I have. EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes. Q. Good. I notice you come to and fro with the aid of a cane a little bit. Is that to help you out with those weak knees you were telling us about? A. Yeah. Kind of help me, you know, stand up a little straight. Q. Okay. You're a little unstable on your feet without that?
2 3 4 5 6 7 8 9 10 11 12 13 4 5 6 7 8 9 0	remember?  A. I don't remember.  Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood?  A. No, ma'am. Don't remember that.  Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside of the hood was the same color as the outside?  A. I'm not for sure.  Q. If you were wearing the hood and I was looking at you, could I see your chin?  MR. FOXWORTH:  Objection. Asked and answered.  Yesterday he described the size of the faceplate.  MS. JONES:  Are you instructing him not to answer?  MR. FOXWORTH:	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	That's all I have.  EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes. Q. Good. I notice you come to and fro with the aid of a cane a little bit. Is that to help you out with those weak knees you were telling us about? A. Yeah. Kind of help me, you know, stand up a little straight. Q. Okay. You're a little unstable on your feet without that? A. Oh, yes. I have fell a couple of
2 3 4 5 6 7 8 9 10 11 12 13 4 5 6 7 8 9 0 1	remember?  A. I don't remember.  Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood?  A. No, ma'am. Don't remember that.  Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside of the hood was the same color as the outside?  A. I'm not for sure.  Q. If you were wearing the hood and I was looking at you, could I see your chin?  MR. FOXWORTH:  Objection. Asked and answered.  Yesterday he described the size of the faceplate.  MS. JONES:  Are you instructing him not to answer?  MR. FOXWORTH:  No.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	That's all I have.  EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes. Q. Good. I notice you come to and fro with the aid of a cane a little bit. Is that to help you out with those weak knees you were telling us about? A. Yeah. Kind of help me, you know, stand up a little straight. Q. Okay. You're a little unstable on your feet without that? A. Oh, yes. I have fell a couple of times.
2 3 4 5 6 7 8 9 10 11 12 13 4 5 6 7 8 9 0 1 1 1 2 1 2 1 1 2 1 1 2 1 1 2 1 1 2 3 1 2 1 2	A. I don't remember. Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood? A. No, ma'am. Don't remember that. Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside of the hood was the same color as the outside? A. I'm not for sure. Q. If you were wearing the hood and I was looking at you, could I see your chin? MR. FOXWORTH: Objection. Asked and answered. Yesterday he described the size of the faceplate. MS. JONES: Are you instructing him not to answer? MR. FOXWORTH: No. MS. JONES:	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	That's all I have.  EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes. Q. Good. I notice you come to and fro with the aid of a cane a little bit. Is that to help you out with those weak knees you were telling us about? A. Yeah. Kind of help me, you know, stand up a little straight. Q. Okay. You're a little unstable on your feet without that? A. Oh, yes. I have fell a couple of times. Q. Okay. And that's due to the weak knees
2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 7 8 9 10 11 12 13 14 15 16 17 18 18 18 18 18 18 18 18 18 18 18 18 18	A. I don't remember. Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood? A. No, ma'am. Don't remember that. Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside of the hood was the same color as the outside? A. I'm not for sure. Q. If you were wearing the hood and I was looking at you, could I see your chin? MR. FOXWORTH: Objection. Asked and answered. Yesterday he described the size of the faceplate. MS. JONES: Are you instructing him not to answer? MR. FOXWORTH: No. MS. JONES: Okay.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	That's all I have.  EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes. Q. Good. I notice you come to and fro with the aid of a cane a little bit. Is that to help you out with those weak knees you were telling us about? A. Yeah. Kind of help me, you know, stand up a little straight. Q. Okay. You're a little unstable on your feet without that? A. Oh, yes. I have fell a couple of times.
2 3 4 5 6 7 8 9 10 11 11 12 13 14 15 16 17 18 19 19 19 19 19 19 19 19 19 19 19 19 19	A. I don't remember. Q. Okay. Do you remember if it had a hanging hook or anything on the very top where you could hang the hood? A. No, ma'am. Don't remember that. Q. You don't remember. Okay. I know you testified that the hood was dark in color. Was that on the outside or the inside or both? I guess my question is: Do you recall if the inside of the hood was the same color as the outside? A. I'm not for sure. Q. If you were wearing the hood and I was looking at you, could I see your chin? MR. FOXWORTH: Objection. Asked and answered. Yesterday he described the size of the faceplate. MS. JONES: Are you instructing him not to answer? MR. FOXWORTH: No. MS. JONES:	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	That's all I have.  EXAMINATION BY MR. KINARD: Q. For the record, my name is John Kinard. I represent American Sand & Gravel, Scott Technologies, Scott Aviation, Wheeler Protectiv Apparel. Mr. McGilberry, how are you today? A. Fine. Q. You hanging in there? A. Oh, yes. Q. Good. I notice you come to and fro with the aid of a cane a little bit. Is that to help you out with those weak knees you were telling us about? A. Yeah. Kind of help me, you know, stand up a little straight. Q. Okay. You're a little unstable on your feet without that? A. Oh, yes. I have fell a couple of times. Q. Okay. And that's due to the weak knees you say kind of run in your family?

	Page 1 A. Once.		Page 115
1 2		1 2	miniming inte tilett.
3	The state of the s	3	total you man you
4	count or to keep your blood count up?	4	assist any kind of broothing and to
5		5	brosonii, respiratoj y
6		6	_
7	Q. Okay.	7	
8	A. I went without it. And it - it was	8	needed the oxygen for any reason other than the
9	the same to alloy put into on	9	low blood count?
10	The state of the s	10	
11	c = 0 you also man 2 / nours a day :	11	on that.
12	the field of the field.	12	Q. Okay. You described earlier in your
13		13	testimony about these brown bags that the that
14	. 0	14	the cement came in that had red writing on it?
15		15	A. Yes, sir.
16	c - many was it would start a your pool thomas it	16	
17	around the clock?	17	
18 19	A. Talking about daily or since I been on it?	18	and the same same,
20		19	
21	Q. Well, how long how many years or months or	20	MR. KINARD:
22	MR. FOXWORTH:	21	Sand. Okay.
23	No, sir. How long how many years	22	Q. Was it sand or cement, the brown bags
24	how long has it been since you've been doing it 24	23 24	with the red writing?
25	hours a day? That's what he's asking.	25	A. The sand the Portland Cement is in, I
<u> </u>	The state of the s	2,5	think is in brown and and green, I think it is.
	Page 114		Page 116
1	A. Oh, I've been 24 since I've been on it.	1	Q. Okay. Do you remember any other colors
2	MR. KINARD:	2	of bags that any sand came in other than the brown
3	Q. Okay. The whole time?	3	with the red writing?
4	A. No. No.	4	A. I don't remember.
5	Q. Okay. You started using it in '99?	5	Q. Okay. What was the color of that sand?
i	A. Yeah.	6	Was it different than any sand you see at a
8	Q. Were you using it sort of a few hours a	7.	playground or on the beach, or was it dark brown
9	day then and gradually got up to 24 hours?  A. Yeah. It had got where I had to use it	8.	
10	A. Yeah. It had got where I had to use it all the time.	10	A. Yeah. It had a color to it.
Ī	an alo time.	10	
11	O. Okay. When you don't use it does it	111	Q. Tell us about that.
11 12	Q. Okay. When you don't use it, does it affect your breathing?	11	A. It wasn't it's not white as the sand
11 12 13	affect your breathing?	12	A. It wasn't it's not white as the sand that's on the beach. And it's a little bit darker
12	affect your breathing?  A. Lots.  Q. Okay. You can't breathe very well	12 13	A. It wasn't it's not white as the sand that's on the beach. And it's a little bit darker than the than the the sand they bring out
12 13	affect your breathing?  A. Lots.	12 13 14	A. It wasn't it's not white as the sand that's on the beach. And it's a little bit darker than the than the the sand they bring out from the yard.
12 13 14 15 16	affect your breathing?  A. Lots. Q. Okay. You can't breathe very well without it?  A. Unless I'm moving around a lot, it	12 13	A. It wasn't it's not white as the sand that's on the beach. And it's a little bit darker than the than the the sand they bring out from the yard.  Q. Okay. So the sand that comes in bulk
12 13 14 15 16 17	affect your breathing?  A. Lots. Q. Okay. You can't breathe very well without it?  A. Unless I'm moving around a lot, it	12 13 14 15	A. It wasn't it's not white as the sand that's on the beach. And it's a little bit darker than the than the the sand they bring out from the yard.  Q. Okay. So the sand that comes in bulk is delivered that you used with the front-end
12 13 14 15 16 17 18	affect your breathing?  A. Lots. Q. Okay. You can't breathe very well without it?  A. Unless I'm moving around a lot, it it affect affect my breathing. But sitting still, I'm okay.	12 13 14 15 16	A. It wasn't it's not white as the sand that's on the beach. And it's a little bit darker than the than the the sand they bring out from the yard.  Q. Okay. So the sand that comes in bulk
12 13 14 15 16 17 18 19	affect your breathing?  A. Lots. Q. Okay. You can't breathe very well without it?  A. Unless I'm moving around a lot, it—it affect — affect my breathing. But sitting still, I'm okay.  Q. Okay. So if you were just sitting here	12 13 14 15 16 17	A. It wasn't it's not white as the sand that's on the beach. And it's a little bit darker than the than the the sand they bring out from the yard.  Q. Okay. So the sand that comes in bulk is delivered that you used with the front-end loader and all is a little bit darker  A. Lighter.
12 13 14 15 16 17 18 19 20	affect your breathing?  A. Lots.  Q. Okay. You can't breathe very well without it?  A. Unless I'm moving around a lot, it—it affect—affect my breathing. But sitting still, I'm okay.  Q. Okay. So if you were just sitting here like you are right now, you could probably do	12 13 14 15 16 17 18 19 20	A. It wasn't it's not white as the sand that's on the beach. And it's a little bit darker than the than the the sand they bring out from the yard.  Q. Okay. So the sand that comes in bulk is delivered that you used with the front-end loader and all is a little bit darker  A. Lighter.
12 13 14 15 16 17 18 19 20 21	affect your breathing?  A. Lots. Q. Okay. You can't breathe very well without it? A. Unless I'm moving around a lot, it—it affect — affect my breathing. But sitting still, I'm okay. Q. Okay. So if you were just sitting here like you are right now, you could probably do without it?	12 13 14 15 16 17 18 19 20 21	A. It wasn't it's not white as the sand that's on the beach. And it's a little bit darker than the than the the sand they bring out from the yard.  Q. Okay. So the sand that comes in bulk is delivered that you used with the front-end loader and all is a little bit darker A. Lighter.  Q. Lighter than comes in the bags?  A. Yes.  Q. Okay. Did you use the sand that came
12 13 14 15 16 17 18 19 20 21 22	affect your breathing? A. Lots. Q. Okay. You can't breathe very well without it? A. Unless I'm moving around a lot, it — it affect — affect my breathing. But sitting still, I'm okay. Q. Okay. So if you were just sitting here like you are right now, you could probably do without it? A. Yeah. If I'm not talking or where it's	12 13 14 15 16 17 18 19 20 21 22	A. It wasn't it's not white as the sand that's on the beach. And it's a little bit darker than the than the the sand they bring out from the yard.  Q. Okay. So the sand that comes in bulk is delivered that you used with the front-end loader and all is a little bit darker  A. Lighter.  Q. Lighter than comes in the bags?  A. Yes.  Q. Okay. Did you use the sand that came in the bags for anything other than mixing it to
12 13 14 15 16 17 18 19 20 21 22 23	affect your breathing? A. Lots. Q. Okay. You can't breathe very well without it? A. Unless I'm moving around a lot, it — it affect — affect my breathing. But sitting still, I'm okay. Q. Okay. So if you were just sitting here like you are right now, you could probably do without it? A. Yeah. If I'm not talking or where it's making me constantly breathe and stuff like that	12 13 14 15 16 17 18 19 20 21 22 23	A. It wasn't it's not white as the sand that's on the beach. And it's a little bit darker than the than the the sand they bring out from the yard.  Q. Okay. So the sand that comes in bulk is delivered that you used with the front-end loader and all is a little bit darker  A. Lighter.  Q. Lighter than comes in the bags?  A. Yes.  Q. Okay. Did you use the sand that came in the bags for anything other than mixing it to make the finished cement? In other words, was it
12 13 14 15 16 17 18 19 20 21 22 23 24	affect your breathing? A. Lots. Q. Okay. You can't breathe very well without it? A. Unless I'm moving around a lot, it—it affect—affect my breathing. But sitting still, I'm okay. Q. Okay. So if you were just sitting here like you are right now, you could probably do without it? A. Yeah. If I'm not talking or where it's making me constantly breathe and stuff like that there—	12 13 14 15 16 17 18 19 20 21 22 23 24	A. It wasn't it's not white as the sand that's on the beach. And it's a little bit darker than the than the the sand they bring out from the yard.  Q. Okay. So the sand that comes in bulk is delivered that you used with the front-end loader and all is a little bit darker  A. Lighter.  Q. Lighter than comes in the bags?  A. Yes.  Q. Okay. Did you use the sand that came in the bags for anything other than mixing it to make the finished cement? In other words, was it used for blasting and mixing for cement?
12 13 14 15 16 17 18 19 20 21 22 23	affect your breathing? A. Lots. Q. Okay. You can't breathe very well without it? A. Unless I'm moving around a lot, it — it affect — affect my breathing. But sitting still, I'm okay. Q. Okay. So if you were just sitting here like you are right now, you could probably do without it? A. Yeah. If I'm not talking or where it's making me constantly breathe and stuff like that	12 13 14 15 16 17 18 19 20 21 22 23	A. It wasn't it's not white as the sand that's on the beach. And it's a little bit darker than the than the the sand they bring out from the yard.  Q. Okay. So the sand that comes in bulk is delivered that you used with the front-end loader and all is a little bit darker  A. Lighter.  Q. Lighter than comes in the bags?  A. Yes.  Q. Okay. Did you use the sand that came in the bags for anything other than mixing it to make the finished cement? In other words, was it

	Page 11	7	
1	that's in the bag		Page 119
2		2	
3	A to mix. Not mix cement with.	3	
4	Q. Okay. That was blasting sand?	4	c
5	A. Yes, sir.	5	is that pit in Glendale?
6	Q. Okay. You finished 12th grade in	6	£
7	school?	7	but it was out from Petal.
8	A. Yes, sir.	8	Q. Okay.
9	Q. Okay. You still read pretty well. I	9	A. I'm not for sure what's the name of it
10	noticed you looking at the documents and all.	10	
11	A. I can read.	11	is they give me the direction how to get there.
12	Q. Read and write?	12	Q. Okay.
13	A. Yeah.	13	
14	Q. Okay. Have you ever heard of the name	14	
15	American Sand & Gravel?	15	said American Sand & Gravel?
16	A. I hauled sand out of there.	16	A. I'm not for sure. It's pretty dusty
17	Q. All right. Where was that?	17	down through there.
18	A. And rocks.	18	Q. Right.
19	Q. Where was that located?	19	A. I'm not for sure.
20	A. In Hattiesburg. Down at - what do	20	Q. If there was no sign posted, then I was
21	they call it? It's out from Hattiesburg.	21	just curious as to how you knew that was the name
22	Glendale.	22	of the company.
23 24	Q. Okay. Was it a pit?	23	A. Well, you can see the sand from the
25	A. Yes, sir.	24	road. You know, it's I'm I'm with some more
	Q. Okay. And the name of the pit was	25	drivers. I'm not the only driver was
	Page 118		Page 120
1	American Sand & Gravel?	1	Q. Right.
2	A. I think so, yes, sir.	2	A was down there, going there.
3	Q. Do you know who operated that?	3	Q. Okay.
4	A. I'm not for sure who own it.	4	A. So see what I'm saying. If you
5	Q. You said you had an occasion to haul	5	following somebody, you you going to the right
6	some sand and gravel out of there?	6	place.
/	A. Yeah. I work I drove for Bush.	7	Q. Right. They'd say, We're going to
8	Bush Construction.	8	American Sand & Gravel. So you go over there
9 10	Q. Okay. Truckdriver for them?	9	and —
11	A. Yes, sir. Q. What period of time was this? What	10	A. Go with
12	Q. What period of time was this? What years?	11	Q get a load?
13	A. After I left Southern Touch. I'm not	12 13	A. Go with the rest of them or ever how
14	for sure what year was it.	13	many need to go and you go.  O. Got you. But during your work history
15	Q. Okay. And where were you hauling the	15	Q. Got you. But during your work history, you don't remember seeing that name on any other
16	sand and gravel?	16	product that you worked with or machinery
17	A. Back to the Bush yard up here in Laurel	17	A. No, sir.
18	at the asphalt plant.	18	Q or anything else?
19	Q. Okay. But you don't remember who the	19	A. No, sir.
20	owners of that	20	Q. Okay.
21	A. No, sir.	21	MR. KINARD:
22	Q pit were?	22	That's all I have. Thank you.
	A. No, sir.	23	EXAMINATION
23			
24	Q. And where exactly was it?	24	BY MS. WINDHAM:
		24 25	· · · · · · · · · · · · · · · · · · ·

	Page 12	1	Page 123
	I Windham. And I represent Phillips Building	1	A. That Quikrete cement. That's what we
	2 Supply. When you were working for Tom Pittman,	2	
	3 you said you went to purchase some dust masks from	3	gravel and and the reals all winds and
	4 Phillips Building Supply?	4	o and the control of
- 1	5 A. No, I did not. I said we got dust	- 1	
	6 masks from Phillips. I didn't say I went and got	5	the second of th
- 1	7 them.	6	
- 1		7	A. No, I'm not for sure.
1	C House Jou Bot mon Hom - Hom	8	C The second of the second sec
	Phillips Building Supply? Were they delivered in?	9	
1	, , , , , , , , , , , , , , , , , , ,	10	A. We did get some from from there for
1		11	Myrick.
1:	or grand the transfer of the control	12	
1.	3 time and answer the question.	13	Phillips Building Supply?
14	A. Either the guy that was driving the	14	
1:		15	· · · · · · · · · · · · · · · · · · ·
10		16	·
11		17	
18	······································	1	A. I don't want to guess at it.
19	the state of the s	18	Q. That's fine.
20	. 5	19	A. I don't know.
	the state of the s	20	Q. Other than that one job site, can you
21	7	21	tell me of any other sites you may have used that
22	5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5	22	Quikrete from Phillips at?
23	0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	23	MR. FOXWORTH:
24		24	You mean specific name sites?
25	Q. And this was in Laurel and Ellisville?	25	MS. WINDHAM:
-		1	
ı			
	Page 122		Page 124
1		1	Page 124
1 2	A. They had two places in Laurel. And I	1	Uh-huh.
2	A. They had two places in Laurel. And I believe Ellisville, yes.	1 2	Uh-huh. A. I don't remember.
3	<ul><li>A. They had two places in Laurel. And I believe Ellisville, yes.</li><li>Q. Do you know how they paid for the</li></ul>	1 2 3	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's
3 4	<ul><li>A. They had two places in Laurel. And I believe Ellisville, yes.</li><li>Q. Do you know how they paid for the masks?</li></ul>	1 2 3 4	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building
2 3 4 5	<ul><li>A. They had two places in Laurel. And I believe Ellisville, yes.</li><li>Q. Do you know how they paid for the masks?</li><li>A. No.</li></ul>	1 2 3 4 5	Uh-huh.  A. I don't remember. Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now
2 3 4 5 6	A. They had two places in Laurel. And I believe Ellisville, yes. Q. Do you know how they paid for the masks? A. No. Q. How often did you go with them to	1 2 3 4 5 6	Uh-huh.  A. I don't remember. Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now A. Uh-huh.
2 3 4 5 6 7	<ul> <li>A. They had two places in Laurel. And I believe Ellisville, yes.</li> <li>Q. Do you know how they paid for the masks?</li> <li>A. No.</li> <li>Q. How often did you go with them to Phillips Building Supply when you were in the</li> </ul>	1 2 3 4 5 6 7	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now  A. Uh-huh.  Q do you know who owned that building
2 3 4 5 6 7 8	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?	1 2 3 4 5 6	Uh-huh.  A. I don't remember. Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now A. Uh-huh. Q do you know who owned that building when you were working on it?
2 3 4 5 6 7 8 9	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave	1 2 3 4 5 6 7	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now  A. Uh-huh.  Q do you know who owned that building
2 3 4 5 6 7 8 9 10	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we	1 2 3 4 5 6 7 8	Uh-huh.  A. I don't remember. Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now A. Uh-huh. Q do you know who owned that building when you were working on it?
2 3 4 5 6 7 8 9 10 11	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or	1 2 3 4 5 6 7 8 9	Uh-huh.  A. I don't remember. Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now A. Uh-huh. Q do you know who owned that building when you were working on it? A. I'm not for sure what was the name of it then.
2 3 4 5 6 7 8 9 10 11 12	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.	1 2 3 4 5 6 7 8 9	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now  A. Uh-huh.  Q do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it — is it the same building
2 3 4 5 6 7 8 9 10 11	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or	1 2 3 4 5 6 7 8 9 10 11	Uh-huh.  A. I don't remember. Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now A. Uh-huh. Q do you know who owned that building when you were working on it? A. I'm not for sure what was the name of it then.
2 3 4 5 6 7 8 9 10 11 12	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.	1 2 3 4 5 6 7 8 9 10 11 12	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now—  A. Uh-huh.  Q. — do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it — is it the same building that Phillips is in right now, or is it just the same site?
2 3 4 5 6 7 8 9 10 11 12 13	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.  Q. So you went many times?  A. Something like that.	1 2 3 4 5 6 7 8 9 10 11 12 13 14	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now  A. Uh-huh.  Q do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it is it the same building that Phillips is in right now, or is it just the same site?  A. It's the same site and a lot of a
2 3 4 5 6 7 8 9 10 11 12 13 14	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.  Q. So you went many times?  A. Something like that.  Q. Would you say once a week?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now  A. Uh-huh.  Q do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it is it the same building that Phillips is in right now, or is it just the same site?  A. It's the same site and a lot of a lot of new stuff on it. A lot of tin new tin
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.  Q. So you went many times?  A. Something like that.  Q. Would you say once a week?  A. Something like that.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now  A. Uh-huh.  Q do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it is it the same building that Phillips is in right now, or is it just the same site?  A. It's the same site and a lot of a lot of new stuff on it. A lot of tin new tin and stuff like that.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.  Q. So you went many times?  A. Something like that.  Q. Would you say once a week?  A. Something like that.  Q. And you mentioned nuts and bolts and	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now—  A. Uh-huh.  Q. — do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it — is it the same building that Phillips is in right now, or is it just the same site?  A. It's the same site and a lot of — a lot of new stuff on it. A lot of tin — new tin and stuff like that.  Q. We talked about the concrete work you
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.  Q. So you went many times?  A. Something like that.  Q. Would you say once a week?  A. Something like that.  Q. And you mentioned nuts and bolts and the masks. Were there any other products you got	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now—  A. Uh-huh.  Q. — do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it — is it the same building that Phillips is in right now, or is it just the same site?  A. It's the same site and a lot of — a lot of new stuff on it. A lot of tin — new tin and stuff like that.  Q. We talked about the concrete work you did at that site. What were your other job duties
2 3 3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.  Q. So you went many times?  A. Something like that.  Q. Would you say once a week?  A. Something like that.  Q. And you mentioned nuts and bolts and the masks. Were there any other products you got from Phillips Building Supply just when you were	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now—  A. Uh-huh.  Q. — do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it — is it the same building that Phillips is in right now, or is it just the same site?  A. It's the same site and a lot of — a lot of new stuff on it. A lot of tin — new tin and stuff like that.  Q. We talked about the concrete work you did at that site. What were your other job duties there? Was it all concrete work?
2 3 3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.  Q. So you went many times?  A. Something like that.  Q. Would you say once a week?  A. Something like that.  Q. And you mentioned nuts and bolts and the masks. Were there any other products you got from Phillips Building Supply just when you were working for Tom Pittman?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now  A. Uh-huh.  Q do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it is it the same building that Phillips is in right now, or is it just the same site?  A. It's the same site and a lot of a lot of new stuff on it. A lot of tin new tin and stuff like that.  Q. We talked about the concrete work you did at that site. What were your other job duties there? Was it all concrete work?  A. Cleaning up, tearing down, moving
2 3 3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.  Q. So you went many times?  A. Something like that.  Q. Would you say once a week?  A. Something like that.  Q. And you mentioned nuts and bolts and the masks. Were there any other products you got from Phillips Building Supply just when you were working for Tom Pittman?  A. We got wood from them, nails. You	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now—  A. Uh-huh.  Q. — do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it — is it the same building that Phillips is in right now, or is it just the same site?  A. It's the same site and a lot of — a lot of new stuff on it. A lot of tin — new tin and stuff like that.  Q. We talked about the concrete work you did at that site. What were your other job duties there? Was it all concrete work?  A. Cleaning up, tearing down, moving things around.
2 3 3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.  Q. So you went many times?  A. Something like that.  Q. Would you say once a week?  A. Something like that.  Q. And you mentioned nuts and bolts and the masks. Were there any other products you got from Phillips Building Supply just when you were working for Tom Pittman?  A. We got wood from them, nails. You know, all according. You know, different—	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now—  A. Uh-huh.  Q. — do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it — is it the same building that Phillips is in right now, or is it just the same site?  A. It's the same site and a lot of — a lot of new stuff on it. A lot of tin — new tin and stuff like that.  Q. We talked about the concrete work you did at that site. What were your other job duties there? Was it all concrete work?  A. Cleaning up, tearing down, moving things around.  Q. And were y'all just laying the
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.  Q. So you went many times?  A. Something like that.  Q. Would you say once a week?  A. Something like that.  Q. And you mentioned nuts and bolts and the masks. Were there any other products you got from Phillips Building Supply just when you were working for Tom Pittman?  A. We got wood from them, nails. You know, all according. You know, different—different things we got from Phillips.	1 2 3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now—  A. Uh-huh.  Q. — do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it — is it the same building that Phillips is in right now, or is it just the same site?  A. It's the same site and a lot of — a lot of new stuff on it. A lot of tin — new tin and stuff like that.  Q. We talked about the concrete work you did at that site. What were your other job duties there? Was it all concrete work?  A. Cleaning up, tearing down, moving things around.  Q. And were y'all just laying the foundation, or were you actually putting the
2 3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.  Q. So you went many times?  A. Something like that.  Q. Would you say once a week?  A. Something like that.  Q. And you mentioned nuts and bolts and the masks. Were there any other products you got from Phillips Building Supply just when you were working for Tom Pittman?  A. We got wood from them, nails. You know, all according. You know, different—different things we got from Phillips.  Q. Do you remember anything else besides	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now—  A. Uh-huh.  Q. — do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it — is it the same building that Phillips is in right now, or is it just the same site?  A. It's the same site and a lot of — a lot of new stuff on it. A lot of tin — new tin and stuff like that.  Q. We talked about the concrete work you did at that site. What were your other job duties there? Was it all concrete work?  A. Cleaning up, tearing down, moving things around.  Q. And were y'all just laying the foundation, or were you actually putting the building up, too?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. They had two places in Laurel. And I believe Ellisville, yes.  Q. Do you know how they paid for the masks?  A. No.  Q. How often did you go with them to Phillips Building Supply when you were in the truck? Do you remember how many times?  A. Well, usually sometimes when we leave the yard, if we need equipment or something, we need something from the store, bolts and nuts or whatever, we went by as we're leaving.  Q. So you went many times?  A. Something like that.  Q. Would you say once a week?  A. Something like that.  Q. And you mentioned nuts and bolts and the masks. Were there any other products you got from Phillips Building Supply just when you were working for Tom Pittman?  A. We got wood from them, nails. You know, all according. You know, different—different things we got from Phillips.	1 2 3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Uh-huh.  A. I don't remember.  Q. That's fine. Going to Mr. Myrick's work sites. When you were working on the building that Phillips Building Supply is in now—  A. Uh-huh.  Q. — do you know who owned that building when you were working on it?  A. I'm not for sure what was the name of it then.  Q. And is it — is it the same building that Phillips is in right now, or is it just the same site?  A. It's the same site and a lot of — a lot of new stuff on it. A lot of tin — new tin and stuff like that.  Q. We talked about the concrete work you did at that site. What were your other job duties there? Was it all concrete work?  A. Cleaning up, tearing down, moving things around.  Q. And were y'all just laying the foundation, or were you actually putting the

		Т	
	Page 12:	5	Page 127
1	They didn't just tear the whole building down.	1	A. No.
2	They just remodeled it.	2	Q. Do you remember how many pounds those
3	Q. Do you remember what areas of the	3	bags were?
4	building you cleaned up in?	4	MR. FOXWORTH:
5	A. The new building was was all the	5	And don't guess if you're not sure.
6	the screws and bolts. At the at the main new	6	A. Seventy.
7	part of the building. And left for the other new	7	MS. WINDHAM:
8	building, we clean that up.	8	Q. And going to that Quikrete cement that
9	Q. You also mentioned that you used some	9	was at the Stringer job site, do you remember if
10	Portland Cement from Phillips Building Supply when	10	it was delivered?
11	you were working on that addition for Southern	11	A. Say that again.
12	Touch?	12	Q. The Quikrete cement that we talked
13	A. Uh-huh.	13	about that was at the Stringer
14	Q. Was that the only job site you used	14	A. Uh-huh.
15	Portland Cement from Phillips at?	15	Q job site that came from Phillips
16	A. The college.	16	Building Supply, do you remember if it was
17	Q. Was that cement delivered?	17	delivered?
18	A. I'm not for sure.	18	A. No, I don't remember.
19	<ol> <li>So you don't know if anyone had to go</li> </ol>	19	MS. WINDHAM:
20	pick it up or not?	20	I think that's all I have. I
21	A. No, ma'am.	21	appreciate it.
22	Q. How much of that cement do you remember	22	EXAMINATION
23	seeing at the Southern Touch site? Do you	23	BY MR. ALEXANDER:
24	remember how many bags?	24	Q. Mr. McGilberry, I know it's been a long
25	A. No, ma'am.	25	couple of days. I'm going to make this real
		<del> </del>	
	Page 126		Page 128
1	Q. And at the college, do you remember how	1	brief. I basically just have two questions for
2	many bags?	2	you. My name is Dan Alexander. I represent
3	A. I don't know.	3	Louis M. Gerson, Incorporated. Before I ask my
4	Q. I think you testified at the Southern	4	question, I want to kind of recap what I have in
5	Touch site, you had to mix that cement?	5	my notes here just to make sure that I understood
6	A. Yeah, to patch with.	6	you correctly. I'm not going to ask you over
7	Q. How many times did you mix it? Do you	7	again. Correct me if what I have down is wrong.
8 9	have any idea? MR. FOXWORTH:	8	I have written down that when you were at Tom
10		9	Pittman, you used a dust mask which was white, had
11	Don't guess if you don't know.  A. I'm not for sure how many times.	10	ridges on it, had an aluminum colored nosepiece
12	A. I'm not for sure how many times, MS. WINDHAM:	11 12	and a white strap that was stapled to it; is that correct?
13	Q. That's fine. And do you know how many	13	
14	times you might have mixed it at the college job	14	A. The aluminum, it didn't have no color.  It was just just like like an aluminum can
15	site?	15	with no writing on it, no color.
16	A. I thought that's what you just asked	16	Q. Okay.
17	me.	17	A. It was just like that. Just aluminum.
18	Q. Oh, I'm sorry. At Southern Touch?	18	Q. Well, I mean, it wasn't like it
19	A. I'm not for sure.	19	wasn't what do you describe aluminum color.
20	Q. Okay. Can you tell me what a bag of	20	Is that like silver, though, or what do you mean
21	Portland Cement looks like?	21	by no color?
22	A. It's a brown bag. It's got green	22	A. Well, it it might be made out of
23	writing on it.	23	aluminum. It might be had a color on it.
24	Q. Do you remember any symbols or logos on	24	Q. Okay.
25	that bag?	25	A. But it was that color like aluminum.
<u> </u>			

Г			
	Page 12	9	Page 13
ĩ	Q. Just the color that aluminum	]	A. Yes, sir.
	A. Yeah.	2	Q. Okay. Other than that one rented pot
1		3	
4	· · · · · · · · · · · · · · · · · · ·	4	
5	C. Campi Provi, Page Maye 101 Cloudil	5	that one rented pot?
16		6	MS. SKIPPER:
1 2	Trinic, with the linges,	7	Objection. Asked and answered.
8	The state of the s	8	
9	1 ,	9	
10		10	Q. Okay. Do you have any idea who made
11	C you make micro word mic single	11	that rented pot?
12	y and a subject to the fitting that you	12	MS. SKIPPER:
13		13	Objection. Asked and answered.
14	· · · · · · · · · · · · · · · ·	14	
15		15	MR. SOUTHERLAND:
16		16	Q. I'm sorry?
17	- The same and the queblions.	17	A. I don't know.
18		18	MR. SOUTHERLAND:
19		19	Thank you. That's all I've got.
20	C PILOSO II	20	MR. FOXWORTH:
21	differently, do you remember anything different	21	Anyone else have anything?
22	about those two masks?	22	EXAMINATION
23	A. Nothing different.	23	BY MS. SKIPPER:
24	Q. As far as you recall, they were exactly	24	Q. Mr. McGilberry, I promise I'm going to
25	the same?	25	be quicker than the first time. I just need some
		<del> </del>	
	Page 130		Page 132
	A. Yeah.	1	information about those Quikrete cement bags.
2	Q. Okay. Well, one more. Now, when you	2	What exactly were you using the Quikrete cement at
3	say stapled on so that mask couldn't be	3	Stringer for in the fencing? Was it to hold the
5	adjusted; is that correct? I mean, it was it	4	fence posts down?
6	was elastic, but it couldn't A. Yeah.	5	A. Yes, ma'am.
7		6	Q. Okay. And that's the only thing you
8	Q. You know, you couldn't make it smaller	7	used the the Quikrete cement for at the
9	A. No.	8	Stringer site?
10	· · · · · · · · · · · · · · · · · · ·	9	A. Yes, sir yes, ma'am.
11	Q or bigger? A. Huh-uh,	10	Q. I know I cut my hair, but now,
12	Q. Okay.	11	Ms. Windham asked you if you can remember any
13	MR. ALEXANDER:	12	other job sites that you used Quikrete for. And
14	Thank you, sir. That's all I have.	13	you couldn't remember anything but the Stringer
15	EXAMINATION	14	site. Could you tell me anything that you used
16	BY MR. SOUTHERLAND:	15	Quikrete for at any other place besides Stringer?
17	Q. Mr. McGilberry, my name is Trey	16	A. I would say at Tom, but I'm not for
18	Southerland. And I represent Schmidt	17	sure what site we used it. But I remember I
19	Manufacturing, Inc., and Bob Schmidt, Inc. You've	18	remember using some.
20	been asked some questions today about your	19	Q. Okay. At Tom
21	_	20 21	MR. FOXWORTH:
22	A. Yes.	21	You say Tom. MS SYTERED.
23		22	MS. SKIPPER:
24	1 "	23 24	Q Pittman?
25		24 25	MR. FOXWORTH:
	The state of the s	دے	What do you mean by Tom?

1	Page 1	33	D 10
]			Page 13: Number 214. It's a 3M 8500 nuisance dust mask.
1 2			
3	Q. Okay. What did you use the Quikrete	3	
4		4	to road quion, prouse;
5	The state of the s	5	
6	MR. FOXWORTH:	6	· •
7	Do you mean on the job site, or what it	7	
8	was used for?	8	
9		9	
10	the state of the s	10	
11		11	What number did you say it was, John?
12		12	MR. FOXWORTH:
13	upplication.	13	It's picture Number 214.
14		14	
15		15	Q. Mr. McGilberry, the picture or the dust
16	y to post to hi to hote which tike	16	mask represented in the picture, which is picture
17	i G F con or population.	17	Number 214 from the Walter Weathers photograph
18	c and remaining job, just	18	books, is that the dust mask that you had
19	1 0	19	described as being the one that you used when you
20	A. Yes, ma'am.	20	worked for Daniel Construction?
21	Q. Okay. Would you ever have an occasion	21	A. I believe that's the one.
22	to chip or hammer a Quikrete cement application?	22	Q. Was it common when you would change out
23	A. Not as I know of.	23	those dust masks or remove the dust mask from your
24	Q. Okay.	24	face that you would have sand in your nose and
25	MS. SKIPPER:	25	mouth?
	Page 134	<del>                                     </del>	Page 136
1	That's all I have.	1	MR. MANUEL:
2	EXAMINATION	2	Object to form.
3	BY MR. FOXWORTH:	3	MR. FOXWORTH:
4	Q. Mr. McGilberry, I'm going to show you a	4	Q. You can answer. He's just doing the
5	picture.	5	same thing I did. Did you understand my question?
6	MR. FOXWORTH:	6	A. Say it again.
7	We'll attach a copy of this picture as	7	Q. Was it common when you would use these
8	Exhibit Number 1 6.	8	dust masks, like this 80 this 3M 8500 at Daniel
9	Q. In this picture, do you do you see	9	Construction, when you would remove that dust mask
10	in represented in this picture the sandblasting	10	from your face to get a new one, that you would
11	pot that you used when you worked for Gordon	11	have sand in your mouth? It would have gotten
12	Myrick? Which would have been the one that you	12	through the mask?
13	drew on your exhibit number what was that	13	MR. MANUEL:
14	yesterday? 4 yesterday.	14	Same objection.
	A. It look just like the one.	15	A. Yes.
15	Q. That's the one here? When you say the	16	MR. FOXWORTH:
16	and storing reference is		
16 17	one, you're referring if you would for the	17	That's all I have.
16 17 18	one, you're referring if you would for the camera, point to the picture, please.	17 18	EXAMINATION
16 17 18 19	one, you're referring if you would for the camera, point to the picture, please.  A. This one right here.	17 18 19	EXAMINATION BY MR. MANUEL:
16 17 18 19 20	one, you're referring if you would for the camera, point to the picture, please.  A. This one right here.  Q. Thank you very much.	17 18 19 20	EXAMINATION BY MR. MANUEL: Q. Mr. McGilberry, I've just got a quick
16 17 18 19 20 21	one, you're referring if you would for the camera, point to the picture, please.  A. This one right here.  Q. Thank you very much.  MR. FOXWORTH:	17 18 19 20 21	EXAMINATION BY MR. MANUEL: Q. Mr. McGilberry, I've just got a quick question. Mr. Foxworth just asked you some
16 17 18 19 20 21 22	one, you're referring if you would for the camera, point to the picture, please.  A. This one right here. Q. Thank you very much. MR. FOXWORTH: We'll attach a photocopy of it as an	17 18 19 20 21 22	EXAMINATION BY MR. MANUEL: Q. Mr. McGilberry, I've just got a quick question. Mr. Foxworth just asked you some questions about having sand in your nose or mouth
16 17 18 19 20 21 22 23	one, you're referring if you would for the camera, point to the picture, please.  A. This one right here. Q. Thank you very much. MR. FOXWORTH: We'll attach a photocopy of it as an exhibit and also for the benefit of Will.	17 18 19 20 21 22 23	EXAMINATION BY MR. MANUEL: Q. Mr. McGilberry, I've just got a quick question. Mr. Foxworth just asked you some questions about having sand in your nose or mouth while working at Daniel Construction. What kind
16 17 18 19 20 21 22 23 24	one, you're referring if you would for the camera, point to the picture, please.  A. This one right here. Q. Thank you very much. MR. FOXWORTH: We'll attach a photocopy of it as an	17 18 19 20 21 22	EXAMINATION BY MR. MANUEL: Q. Mr. McGilberry, I've just got a quick question. Mr. Foxworth just asked you some questions about having sand in your nose or mouth

	Page I  A. I don't know if it be sand. It	37	Page II
ŀ	The state of the state. It		The same of the sa
1	1	2	The state of the s
	C - Will William Killing	3	5
	The second make a pullully		and I did it dittil.
1		5	- J J mice and and viciou,
1	to or omppose,	6	
8	e. ompring or what:	7	The state of the s
9		8	- · · · · · · · · · · · · · · · · · · ·
10	C	9	2. I will the thouse napport will the thisk
11		10	and a subject to go change and get
12		11	
13	C	12	The same of the sa
14		13	b water a did for Bottle Water foll
15	c was a die omppling guil	14	and dusty.
16	I Bout 20 to all the powered guil of	15	C TOWN AND THE WAR AND THE PROPERTY AND THE PARTY AND THE
17	powerou.	16	y be would offer out a mask!
18	C II TOZB WOULD IT WILL TO! CHISE W	17	- The state of the
19	The state of the worker at Daniel	18	know. Just you want to get some water, you know,
20	THE THE PARTY IS NOT THE WIND YOU WERE	- F	just sometime like that.
21	using the chipping gun, how long would it take?  A. I'm not for sure.	20	Q. Did did you ever have any problems
22		21	at Daniel Construction with the number of masks
23	the state state of the state of	22	that you wanted to use during the day? Did
24	day and at the end of the day it would be like	23	anybody say you can only use two masks a day or
25	that, or was it within five minutes of wearing	24	anything like that?
		25	A. No, sir.
	Page 138		Page 140
1	MR. FOXWORTH:	ł	
		1	O. So you could get as many masks as you
2	If you know, tell him. But don't	1 2	Q. So you could get as many masks as you wanted?
3	guess.	j i	wanted?
3 4	guess. MR. MANUEL:	2	wanted? A. Yes, sir.
3 4 5	guess.  MR. MANUEL:  He's heard that advice enough, I think	2	wanted?  A. Yes, sir.  Q. And it was up to you to make the
3 4 5 6	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.	2 3 4	wanted? A. Yes, sir. Q. And it was up to you to make the decision as to when you wanted to change out your
3 4 5 6 7	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:	2 3 4 5	wanted?  A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you
3 4 5 6 7 8	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.	2 3 4 5 6	wanted?  A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you — when you felt comfortable to want to change it.
3 4 5 6 7 8 9	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.	2 3 4 5 6 7	wanted?  A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you
3 4 5 6 7 8 9 10	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:	2 3 4 5 6 7 8	wanted?  A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you — when you felt comfortable to want to change it, you — you just went and changed it?
3 4 5 6 7 8 9 10	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of	2 3 4 5 6 7 8 9	A. Yes, sir. Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it? A. Yes, sir. MR. MANUEL:
3 4 5 6 7 8 9 10 11 12	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of your supervisors or the safety man when you were	2 3 4 5 6 7 8 9	wanted?  A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it?  A. Yes, sir.
3 4 5 6 7 8 9 10 11 12 13	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of your supervisors or the safety man when you were working on the power plant for Daniel Construction	2 3 4 5 6 7 8 9 10 11	A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it?  A. Yes, sir.  MR. MANUEL:  That's all the questions I have. Thank you, Mr. McGilberry.
3 4 5 6 7 8 9 10 11 12 13 14	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of your supervisors or the safety man when you were working on the power plant for Daniel Construction about the buildup of dust in your mouth?	2 3 4 5 6 7 8 9 10 11 12	A. Yes, sir. Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it? A. Yes, sir. MR. MANUEL: That's all the questions I have. Thank
3 4 5 6 7 8 9 10 11 12 13 14 15	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of your supervisors or the safety man when you were working on the power plant for Daniel Construction about the buildup of dust in your mouth?  A. No.	2 3 4 5 6 7 8 9 10 11 12 13	A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it?  A. Yes, sir.  MR. MANUEL:  That's all the questions I have. Thank you, Mr. McGilberry.
3 4 5 6 7 8 9 10 11 12 13 14 15 16	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of your supervisors or the safety man when you were working on the power plant for Daniel Construction about the buildup of dust in your mouth?  A. No.  Q. Did you ever ask to have a different	2 3 4 5 6 7 8 9 10 11 12 13 14	A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it?  A. Yes, sir.  MR. MANUEL:  That's all the questions I have. Thank you, Mr. McGilberry.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of your supervisors or the safety man when you were working on the power plant for Daniel Construction about the buildup of dust in your mouth?  A. No.  Q. Did you ever ask to have a different mask provided to you or any other type of	2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it?  A. Yes, sir.  MR. MANUEL:  That's all the questions I have. Thank you, Mr. McGilberry.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of your supervisors or the safety man when you were working on the power plant for Daniel Construction about the buildup of dust in your mouth?  A. No.  Q. Did you ever ask to have a different mask provided to you or any other type of respiratory protection equipment?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it?  A. Yes, sir.  MR. MANUEL:  That's all the questions I have. Thank you, Mr. McGilberry.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of your supervisors or the safety man when you were working on the power plant for Daniel Construction about the buildup of dust in your mouth?  A. No.  Q. Did you ever ask to have a different mask provided to you or any other type of respiratory protection equipment?  A. No, sir.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it?  A. Yes, sir.  MR. MANUEL:  That's all the questions I have. Thank you, Mr. McGilberry.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of your supervisors or the safety man when you were working on the power plant for Daniel Construction about the buildup of dust in your mouth?  A. No.  Q. Did you ever ask to have a different mask provided to you or any other type of respiratory protection equipment?  A. No, sir.  Q. Did you regularly change out the masks	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it?  A. Yes, sir.  MR. MANUEL:  That's all the questions I have. Thank you, Mr. McGilberry.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of your supervisors or the safety man when you were working on the power plant for Daniel Construction about the buildup of dust in your mouth?  A. No.  Q. Did you ever ask to have a different mask provided to you or any other type of respiratory protection equipment?  A. No, sir.  Q. Did you regularly change out the masks that you used while you worked at Daniel	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it?  A. Yes, sir.  MR. MANUEL:  That's all the questions I have. Thank you, Mr. McGilberry.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of your supervisors or the safety man when you were working on the power plant for Daniel Construction about the buildup of dust in your mouth?  A. No.  Q. Did you ever ask to have a different mask provided to you or any other type of respiratory protection equipment?  A. No, sir.  Q. Did you regularly change out the masks that you used while you worked at Daniel Construction, use more than one mask a day?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it?  A. Yes, sir.  MR. MANUEL:  That's all the questions I have. Thank you, Mr. McGilberry.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of your supervisors or the safety man when you were working on the power plant for Daniel Construction about the buildup of dust in your mouth?  A. No.  Q. Did you ever ask to have a different mask provided to you or any other type of respiratory protection equipment?  A. No, sir.  Q. Did you regularly change out the masks that you used while you worked at Daniel Construction, use more than one mask a day?  A. Yes, sir.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it?  A. Yes, sir.  MR. MANUEL:  That's all the questions I have. Thank you, Mr. McGilberry.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	guess.  MR. MANUEL:  He's heard that advice enough, I think he knows.  MR. FOXWORTH:  He likes to hear it. I like to say it.  A. I'm not for sure.  MR. MANUEL:  Q. Okay. Did you ever complain to any of your supervisors or the safety man when you were working on the power plant for Daniel Construction about the buildup of dust in your mouth?  A. No.  Q. Did you ever ask to have a different mask provided to you or any other type of respiratory protection equipment?  A. No, sir.  Q. Did you regularly change out the masks that you used while you worked at Daniel Construction, use more than one mask a day?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. Yes, sir.  Q. And it was up to you to make the decision as to when you wanted to change out your mask during the day; is that correct? When you when you felt comfortable to want to change it, you you just went and changed it?  A. Yes, sir.  MR. MANUEL:  That's all the questions I have. Thank you, Mr. McGilberry.

ı	Page 141	
	1 CERTIFICATE OF COURT REPORTER	
	2 I, Janna White, CSR #1312, do hereby	
	3 certify that the foregoing pages contain a true	
1	4 and correct transcript of the testimony of the	
	5 witness as taken by me at the time and place	
	6 heretofore stated and later reduced to typewritten	
1	7 form by computer-aided transcription under the	
	y and a standard to the standa	
	0 in this cause and was thereupon carefully examined 1 upon this oath.	·
ı	<u>.</u>	
t	and the state of t	
1	The first se die delicit in will fill	
1	The state of the s	
1	in the property of the propert	
1	i b - b - marion not on intermediate	
1		
2		
2		
2	The second secon	
2		
24	1	
<u>'</u> '		
25	Janna White, CSR #1312	•
<i>ب</i>		
	Page 142	
1		
2	I, do solemnly swear	l l
٠,		
3	that I have read the foregoing pages and	
4	that I have read the foregoing pages and that the same is a true and correct transcript of	
4 5	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place	
4 5 6	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following	
4 5 6 7	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:	
4 5 6 7 8	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following	
4 5 6 7	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections: PAGE: LINE: CORRECTION:	
4 5 6 7 8 9	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections: PAGE: LINE: CORRECTION:	
4 5 6 7 8 9	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections: PAGE: LINE: CORRECTION:	
4 5 6 7 8 9 10	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections: PAGE: LINE: CORRECTION:	
4 5 6 7 8 9 10 11	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections: PAGE: LINE: CORRECTION:	
4 5 6 7 8 9 10 11 12 13	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections: PAGE: LINE: CORRECTION:	
4 5 6 7 8 9 10 11 12 13 14	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections: PAGE: LINE: CORRECTION:	
4 5 6 7 8 9 10 11 12 13 14	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections: PAGE: LINE: CORRECTION:	
4 5 6 7 8 9 10 11 12 13	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:  PAGE: LINE: CORRECTION:  John McGilberry  NOTARIZATION  I. notary public for	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:  PAGE: LINE: CORRECTION:  John McGilberry  NOTARIZATION  I, notary public for the State of Mississippi, County,	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:  PAGE: LINE: CORRECTION:  John McGilberry  NOTARIZATION  I notary public for the State of Mississippi, County, do hereby certify that	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:  PAGE: LINE: CORRECTION:  John McGilberry  NOTARIZATION  I notary public for the State of Mississippi, County, do hereby certify that personally appeared before me this the day	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:  PAGE: LINE: CORRECTION:  John McGilberry  NOTARIZATION  I notary public for the State of Mississippi, County, do hereby certify that day of 2004, at day	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:  PAGE: LINE: CORRECTION:  John McGilberry  NOTARIZATION  I notary public for the State of Mississippi, County, do hereby certify that personally appeared before me this the day	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:  PAGE: LINE: CORRECTION:  John McGilberry NOTARIZATION  I notary public for the State of Mississippi, County, do hereby certify that personally appeared before me this the day of 2004, at Mississippi.	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:  PAGE: LINE: CORRECTION:  John McGilberry NOTARIZATION  I, notary public for the State of Mississippi, County, do hereby certify that personally appeared before me this the day of 2004, at Mississippi.	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:  PAGE: LINE: CORRECTION:  John McGilberry  NOTARIZATION  I notary public for the State of Mississippi, County, do hereby certify that personally appeared before me this the day of 2004, at Mississippi.  Notary Public  My Commission Expires:	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:  PAGE: LINE: CORRECTION:  John McGilberry NOTARIZATION  I, notary public for the State of Mississippi, County, do hereby certify that personally appeared before me this the day of 2004, at Mississippi.	

## 37 | 535

## IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN McGILBERRY

**PLAINTIFF** 

٧.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, et al.

**DEFENDANTS** 

## AGREED INITIAL DISCOVERY ORDER

This matter comes before the Court on the motion of the parties requesting an Initial

Discovery Order and this Court having considered the agreement of counsel finds that an Initial

Discovery Order should be, and is, granted.

IT IS THEREFORE ORDERED AND ADJUDGED that Plaintiff shall not be required to respond to any discovery propounded prior to the entry of this Order except the Master Set, as discussed below;

IT IS FURTHER ORDERED AND ADJUDGED that all Defendants shall jointly propound to Plaintiff an Initial Master Set of Interrogatories and Requests for Production of Documents, in the form attached as Exhibit "A".

IT IS FURTHER ORDERED AND ADJUDGED that Defendants shall have sixty (60) days from the date of this order to respond to written discovery requests that have previously been propounded by Plaintiff to each Defendant.

IT IS FURTHER ORDERED AND ADJUDGED that any Defendant may seek to compel responses to the Defendants' Master Set as each deems appropriate.

IT IS FURTHER ORDERED AND ADJUDGED that each Defendant shall be allowed to propound an additional twenty (20) non-duplicative Interrogatories to Plaintiff. This number shall not be exceeded absent agreement of the parties or upon a showing of good cause to this Court. Defendants may also propound additional Requests for Production of Documents and Requests for Admissions as allowed under the Mississippi Rules of Civil Procedure.

EXHIBIT "J"

LARRY D. ISHEE CIRCUIT CLERK JONES COUNTY, MS

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff will have sixty (60)

days to respond to Defendants' Master Set after production of same once this order has been entered. Extensions shall be allowed under this order upon agreement of Plaintiff's and/or Defendants' counsel as each deems appropriate.

SO ORDERED this the 12th day of December, 2007

GREED TO:

EDWIN S. GAULT, JR., MSB No. 10187

JENNIFER J. SKIPIJER, MSB No. 100808

Attorney for Certain Defendants

FORMAN PERRY WATKINS KRUTZ

& TARDY LLP

200 Lamar Street

City Centre Building, Suite 100

Jackson, Mississippi 39201-4099

Telephone: (601) 960-8600

Facsimile: (601) 960-8613

N SMITH, JR. ESQ., MSB No. 99984

Attorney for Plaintiff

THE SMITH LAW FIRM

681 Towne Center Blvd., Suite B

Ridgeland, MS 39157

Telephone: (601) 952-1422

Facsimile: (601) 952-1426

STATE OF MISSISSIPPI

JUDICIAL DISTRICT

I, LARRY ISHEE, Circuit Clerk, in and for said County and State, do hereby certify that the arraye and foregoing is a true and correct copy of the above instrument and appears of record on file in the office of the Circuit Clark at

Jones County, Mississippi

Given under my hand and official see

## IN THE CIRCUIT COURT FOR THE FIRST JUDICIAL DISTRICT OF JONES COUNTY, MISSISSIPPI

JOHN MCGILBERRY

**PLAINTIFF** 

VS.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, ET AL.

**DEFENDANTS** 

# PLAINTIFF'S RESPONSE TO DEFENDANTS' MASTER SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF

COMES NOW, Plaintiff, by and through his attorneys of record, and files this his response to Defendant's Master Set of Interrogatories and Request for Production of Documents as follows, to wit:

- Provide the following information:
  - a. Plaintiffs full name,
  - b. Date and place of birth,
  - c. Social Security number,
  - Drivers license number, including and identification of the state that issued the drivers license,
  - e. Present address and length of time at address,
  - All prior addresses, listed in chronological order, over the past twenty (20)
    years,
  - g. A list of persons who live(d) at each such address with you and their relationship to you, if any,
  - h. If plaintiff is currently, or has ever been, known by any other name at any other time, please state all such former names,
  - i. Plaintiffs present weight and height.

RESPONSE: To the best of my recollection at this time:

- John Elman McGilberry
- b. c.
- d.
- e. the past 8 years



- f. from 1992 until 2000
- g. Paula McGilberry (wife), Anita Gordon (daughter), Jonathan McGilberry (grandson), Jasmine Gordon (granddaughter), Jemarry McGilberry (grandson), Angela McGilberry (daughter), Greg Clark (grandson), Gary Clark (grandson), Keisha Clark (granddaughter), Christina McGilberry (daughter), Frederick Carol (grandson), Faquita Carol (granddaugter), Frekayla Carol (granddaughter), Frekyra McGilberry (granddauther), Courtney McGilberry (daughter), Brand Hathorne (grandson), Joni McGilberry (daughter), Marcus McGilberry (grandson), Jaquan McGilberry (grandson), Daron McGilberry (grandson)
- h. Not applicable.
- i. 5'10", 228 pounds
- 2. Identify each person who answers or assists in answering these Interrogatories (including persons who supply information for your answers) and fully describe each such persons relationship to, or authority to answer for, Plaintiff.

RESPONSE: To the best of my recollection at this time, myself and my attorneys.

- Provide the following information:
  - Name of Plaintiffs current spouse, spouses date of birth, Social Security Number, place of marriage, and length of marriage;
  - b. Former spouse(s), if any, current address if known, and length of marriage; and
  - Names, date of birth, current addresses and Social Security number of any and all natural or adopted children;
  - d. Name, relationship to Plaintiff, and Social Security number of any other dependant including but not limited to, children, parents, in-laws, relatives, or other individuals; for each such person state the extent to which such person is dependent upon you for financial support and maintenance.

RESPONSE: To the best of my recollection at this time, the Plaintiff married Paula McGilberry (2007) and has been married to Paula for the past 30+years. The Plaintiff has the following children: 1) Anita Gordon (daughter) (2007) Angela McGilberry (daughter) (daug

4. State whether you have ever been convicted of or pleaded guilty to any crime, felony, offense, or misdemeanor involving moral turpitude; whether you have ever been in jail or prison, and if so, give the name and location of any jail or prison in which you were confined. State whether you are presently on probation or parole, and if so, the name and location of your probation or parole officer.

RESPONSE: To the best of my recollection at this time, no.

5. Provide Plaintiffs educational and vocational training background.

**RESPONSE:** To the best of my recollection at this time, Plaintiff graduated from South Jones High School.

6. Are you currently engaged in any gainful employment or other income producing activity? If so, please state: (a) the nature/type of employment or income producing activity; (b) the dates you have been engaged in this employment or income producing activity; (c) each employers name and address; (d) your monthly wage or income from the employment or income producing activity; (e) the name of your immediate supervisor; (f) the name of any co-workers; and (g) please attach all documents which contain information utilized in providing your answers to these interrogatories.

RESPONSE: To the best of my recollection at this time, no. Not applicable.

7. List the name, address and telephone number of each of plaintiffs employers from the time he started working until the present, including any service in any branch of the United States Military, and for each employment, please state: (a) the dates of employment; (b) how the employment was obtained; (c) the name, address and telephone number of his immediate supervisor(s); (d) the capacity or capacities in which he worked during the term of employment; (e) the reason for termination of his employment, including, but not limited, to whether such termination was for health related reasons, and whether such termination was voluntary or involuntary, and whether any discharge from any military service was honorable or on some other basis; and (f) the name, address and telephone number of each and every co-worker during said term of employment.

RESPONSE: Plaintiff has executed authorizations of defense to obtain his social security earnings statement. Plaintiff has never been in the military. To the best of my recollection at this time, Plaintiff worked as a laborer, cleaning up, sandblasting and mixing cement at H. G. Myrick in Laurel, Mississippi from 1985 until 1989. The Plaintiff also worked for Howard Industries as a core lacer and sandblaster in Laurel, Mississippi from 1974 until 1981. The Plaintiff worked from Tom Pittman as a laborer, cleaning up, sandblasting and mixing cement from 1972 until 1974. The Plaintiff has also been employed by Sanderson Farms where he picked up eggs in the chicken houses and then also Southern Touch in Ellisville, Mississippi.

8. For each employer or contractor in whose employ or service you believe you were exposed to silica, state the employers/contractors full business name, address, telephone number and dates of service.

RESPONSE: Plaintiff has executed an authorization for the Social Security Administration. Please refer to his social security earnings statement. Also, please see attached work history.

- 9. Has Plaintiff, or someone on his behalf, made application for employment with any prospective employer since the filing of this lawsuit? If so, please state the following:
  - a. The name(s) of the prospective employers;
  - b. The dates any such application(s) was made;

They type of work applied for;

d. The address and telephone number of each prospective employer where the application was made.

## RESPONSE: No.

10. If any of your employers/contractors or prospective employers/contractors either required or made available physical examinations for employees, state the frequency, dates and locations of such examinations, whether you were examined, and whether chest x-rays were taken of you at such examinations.

**RESPONSE:** To the best of my recollection at this time, no physical exams were required or offered. No chest x-rays.

- 11. If Plaintiff has ever been a member of a union, please state the following:
  - a. The name of each such union;
  - b. The name and address of each local that Plaintiff has been a member;

The dates Plaintiff belonged to each such union and local;

d. Whether Plaintiff held any elected positions in the union, and if so, describe all positions you held and for what periods of time you held such position.

RESPONSE: To the best of my recollection at this time:

- a. IBEW
- b. Laurel, Mississippi
- c. 1979-1987
- d. Not applicable.
- 12. State whether Plaintiff possesses or has possessed a license issued by any agency (governmental or non-governmental) or other person, to perform any profession, trade, or occupation. If so, please state:
  - The name, address, and telephone number of the entity issuing the license(s);

- b. The date the license(s) was issued;
- The profession, trade, occupation the license(s) was issued for.

## RESPONSE: No. Not applicable.

13. Has Plaintiff ever smoked? If so, describe plaintiffs smoking history, including the approximate dates he smoked and the identity of what plaintiff smoke (product and brand name) and how many packs per day.

Note: Smoking is broadly defined to include the use of any form of tobacco product, including cigarette smoking, cigar smoking, and pipe smoking. It also includes the use of smokeless tobacco including the use of snuff and the use of chewing tobacco. Finally, it includes the smoking of any other substance or chemical, whether legal or illegal in nature.

## RESPONSE: The Plaintiff is a lifelong non-smoker.

14. Has Plaintiff ever used, inhaled, injected, or ingested any legal or illegal drugs or narcotic agents including, but not limited to cocaine, crack cocaine, heroin, PCP, hallucinogens, barbiturates, or amphetamines? If so, describe Plaintiffs history regarding the use of such drugs or narcotic agents, including the approximate dates on which such usage occurred and the identity of what drugs or narcotic agents were used, inhaled, injected, or ingested.

### RESPONSE: No.

- 15. Please describe all claims you have had (including but not limited to this lawsuit) for Damages for personal injuries or emotional injuries against any individual, partnership or corporation. For each such claim, please indicate the following:
  - a. The style of the lawsuit, cause number and court in which the lawsuit was filed;
  - A description of the injuries claimed in the lawsuit;
  - The date the claim was filed;
  - The name and address of the attorney who represented you in the matter;
  - e. Any resolution, judgment or settlement of the claim including the date and amount of such judgment, resolution or settlement with respect to each individual defendant in that case.

**RESPONSE:** Objection. Without waiving said objection, Plaintiff was involved in an asbestos lawsuit.

16. Has Plaintiff ever filed a claim for disability with the Veterans Administration or the Social Security Administration? If so, state for each such claim:

- a. The file number or other identifying number of the claim;
- b. The address of the office where the claim was filed;
- c. The date the claim was filed; and
- d. The name and address of each medical practitioner who tested, treated, or examined Plaintiff in connection with each such claim.

**RESPONSE:** To the best of my recollection at this time, yes, Social Security Disability. However, the Plaintiff does not recall the details of this claim at this time.

- 17. Has Plaintiff ever filed a claim for workers compensation? If so, state for each such claim:
  - a. Name of insurance company;
  - b. Name of Plaintiffs employer for each claim, the date of each claim, nature/ injury of claim, and the file number for reach claim filed with the Industrial Accident Board;
  - The amount of money paid for each claim;
  - d. If a lawsuit was filed concerning any such claim, the style of the lawsuit, cause number, and court in which the lawsuit was filed;
  - e. The claim number assigned by the IAB or new workers compensation authority;
  - f. If the claim involved the injuries at issue in this lawsuit, state whether the claim has been settled and, if so, the date and amount of the settlement;
  - g. The name and address of each medical practitioner who tested, treated, or examined Plaintiff in connection with each such claim.

**RESPONSE:** To the best of my recollection at this time, yes, back in 1982. However, the Plaintiff does not recall the details of this claim at this time.

18. If any report(s) or claim(s) based on your alleged exposure to or use of the products which you allege caused the personal injury made the basis of this lawsuit were made to any insurance company, please state the name, address and telephone number of each insurance company, the name, address and telephone number of the insurance agent through whom you made any such claim, the date of each claim, the insurance policy number(s) and any claim number(s) assigned to your claim(s) by each insurance company.

## RESPONSE: No.

19. Aside from the claims made in the proceeding, has Plaintiff ever been involved in any other accident or incident in which he sustained a personal injury or has he sustained any personal injury as the result of any exposure to any chemicals, fumes, gases, fibers, particles or dusts? If so, state (a) the place and date of each such accident, incident or exposure; (b) the circumstances, nature, location and extent of the injuries; (c) the nature of Plaintiffs activity at the time said injury was sustained; (d) the names and addresses of each and every physician who examined or treated Plaintiff for such injury

and the names and addresses of each and every hospital or other medical facility at which he was treated for that injury; (f) whether he made a formal or informal claim for such injury and the amount and date of any award or payment received; (g) whether a lawsuit, workers compensation claim or other administrative claim was filed as result of such injury and, if so, the court, cause number, caption and disposition.

#### RESPONSE: No.

20. If Plaintiff has any family history of cancer, state the name of the family member(s) diagnosed as having cancer, the family members age when diagnosed, the family members relationship to Plaintiff, the type(s) of cancer diagnosed, the name and address of the treating doctor or hospital where the family member was treated, and if the family member is now deceased, the date of their death and whether they died of the aforementioned cancer or from another cause.

**RESPONSE:** To the best of my recollection at this time, Plaintiff's mother died from cancer. However, the Plaintiff does not recall the date or even year of her death at this time.

21. What specific diseases(s), illness or illnesses or medical condition(s) does the plaintiff attribute to his use of the defendants products? For each disease, illness or medical condition, please identify the date the disease, illness or medical condition began, the name of any medications prescribed by any doctor for the treatment of any such disease, illness or medical condition, the name and address of the doctors who have diagnosed and/or treated plaintiff for this disease, illness or medical condition and the date and type of treatment received.

RESPONSE: Objection. This interrogatory requires expert testimony.

- 22. Identify each medical practitioner or medical facility by whom or at which Plaintiff was examined, or by whom or at which plaintiff was treated, at any time during his life. For each medical practitioner or medical facility identified, state:
  - a. The date(s) of examination or treatment;
  - Each illness or injury for which each such medical practitioner or medical facility treated or examined Plaintiff;
  - c. Whether Plaintiff has had any x-rays, CAT, MRI, scans, PFTs, Arterial Blood Gas tests, Bronchoscopies, Bronchioalveolar Lavage or other non-invasive imagining diagnostic chest pictures taken or lung tests performed;
  - e. The dates such x-rays, CAT, MRI, scans, PFTs, Arterial Blood Gas tests, Bronchoscopies, Bronchioalveolar Lavage or other non-invasive imagining diagnostic chest pictures were taken or lung tests performed; and
  - f. Whether any other tests or procedures were performed on Plaintiff and, if so, the nature of such tests or procedures.

RESPONSE: Objection. This interrogatory is over broad and unduly burdensome in asking the Plaintiff to recall every practitioner and medical facility he may have been in throughout his life. Subject to and without waving these objections, you are being furnished medical authorization to obtain all medical records of the Plaintiff. Without waiving said objection, see Plaintiff's medical records. To the best of my recollection at this time, Plaintiff has been treated at the Dr. Louis Niece and Dr. John Partman, Hattiesburg Clinic, Hattiesburg, Mississippi; 2) South Central Regional Hospital in Laurel, Mississippi; and 3) Forrest General Hospital in Hattiesburg, Mississippi.

23. Please identify every psychiatrist, psychologist, therapist, counselor, other mental health care provider, clergyman or other person from whom any Plaintiff has sought counseling, diagnosis, testing, treatment, advice or other care which you allege resulted from the illness of any Plaintiff.

## RESPONSE: None.

- 24. With respect to any screening or testing in which you may have participated for a silica or asbestos related disease, conditions, or other injuries, state:
  - a. the dates(s) of each such testing or screening;
  - b. the name and address of each clinic, laboratory or facility at which such testing or screening was performed;
  - c. the medical tests or diagnostic method used during each testing or screening (e.g., pulmonary function tests, chest x-ray(s), etc.);
  - the name of each person with whom you had direct contact as part of each testing or screening (e.g., clerical personnel, technicians, and/or physicians);
  - e. how you learned of the availability of each testing or screening (e.g., newspaper, radio or television advertising; word of mouth; fliers or pamphlets) and specifically identify the source; and
  - f. whether you paid for, or have been billed for such testing or screening services, and the amount of any such payment or billing.

**RESPONSE:** Objection. Screening is not a defined term; therefore this interrogatory is vague and ambiguous.

25. Please identify each and every examination or test you have been given by any physician(s), psychologist(s), or paramedical personnel selected or recommended by any of your attorneys, including but not limited to, any x-rays, PFTs, CT scans, arterial blood gas tests, Bronchoscopies, or Bronchoalveolar Lavages.

RESPONSE: Objection. This interrogatory seeks information that is privileged.

26. Will you agree to submit to an independent medical examination, including a x-ray, CT scan and/or a PFT, at the expense of the Defendants?

RESPONSE: Objection, there are a myriad of products manufactured, distributed and sold which contributed to the plaintiff's disease. As such, this interrogatory is over broad and unduly burdensome. Without waiving this objection, the plaintiff would state that sand is unreasonably dangerous for use in abrasive blasting. Sand may also be unavoidably dangerous. Exposure to free silica leads to silicosis both for person actually performing the work of sandblasting and for persons who are in the vicinity of sandblast operations. The degree of exposure to free silica in sandblasting is so ultra hazardous that even the best respiratory protective equipment may not sufficiently protect those in the work environment. Many respiratory protective devices or devices sold for use in the sandblasting industry were also unreasonably dangerous by virtue of their design. Non-air supplied hoods and dust masks were inadequate forms of protection for respirable silica. Neither the non-air supplied hoods nor the dust masks could provide protection against inhaling the particles generated by the sandblasting process. Application equipment was also unreasonably dangerous since it fractured the sand to respirable size. Application equipment failed to have adequate warnings for many years even into the present time. Even approved air supplied hoods fail to provide adequate protection in actual working conditions. The plaintiff maintains in this lawsuit that sand should not be used for abrasive blasting, that substitute abrasives should be used. The plaintiff also maintains that the application equipment helped to create the danger by reducing the sand particle to respirable size. The plaintiff claims that all products that he used were unreasonably dangerous either because of their inherent nature, their design, and/or their lack of an adequate or suitable warning. The products supplied by Defendants failed to warn the plaintiff of the nature and extent of the dangers associated with using high silica containing abrasives in abrasive blasting. Defendants also failed to inform the plaintiff of the best methods to avoid the dangers associated with abrasive blasting. Defendant failed to provide use limitations with their products and often misrepresented the protection provided by said products. Lastly, the response to this interrogatory may be better developed through deposition of Plaintiff's coworkers.

- 30. With respect to each Respiratory Protection Device that you/your decedent have/had ever worn, if you contend that you/your decedent sustained injuries or damages, in whole or in part, due to the use of said Respiratory Protection Device, describe in detail:
  - a. The brand name, generic description and/or other identifying description of said Respiratory Protection Device, including but not limited to, color of product; number and color of straps/bands, if any; and what part of the face was covered; the type of material the mask/respirator/hood was made of, e.g. cloth/paper, vinyl, plastic, rubber, leather, etc; and, whether there was a name on the mask/respirator/hood
  - b. The type of packaging in which the Respiratory Protection Device came;
  - The name of the defendant which you contend designed, manufactured, sold or distributed each Respiratory Protection Device;
  - d. Your/your decedent's employer and the specific job site or sites during each which said Respiratory Protection Device was used;

- The activity being performed while each Respiratory Protection Device was being worn;
- f. The inclusive dates of use of each Respiratory Protection Device;
- g. All instructions given to you/your decedent by your/your decedent's employer or any other person relating to the use of each Respiratory Protection Device;
- h. Whether any changes or modifications were made to any Respiratory Protection Device used or worn by you/your decedent, by your employer or any other person prior to or subsequent to such devices' use;
- i. If applicable, the type of filter used in any Respiratory Protection Device worn or used by you, and how often, if ever, the filter was changed; if there was a filter, was it a cartridge and if so, was there more than one cartridge and where was the cartridge(s) located on the mask
- The age and condition of the Respiratory Protection Device when used by you/your decedent;
- The approximate percentage of time you/your decedent wore each Respiratory Protection Device;
- The identity of persons with knowledge of your/your decedent's use of any Respiratory Protection Device; and
- Specifically how you contend that any Respiratory Protection Device used or worn by you was defective.

RESPONSE: Plaintiff objects to this request as being over broad and unduly burdensome. Plaintiff was never warned about the hazards of using high silica abrasives in abrasive blasting. Plaintiff followed all safety rules and guidelines of his employers and used the equipment provided to him by his employers. In addition, the response to this interrogatory may be better developed through the deposition of Plaintiff and Plaintiff's co-workers.

- 31. For each of the Defendants products to which you were exposed or to which you contend contributed to your exposure during your employment history, state the following:
  - The precautions you took during the times of exposure to the product;
  - b. The precautions your employer/contractor suggested, recommended or required to be taken to minimize or eliminate your exposure to or inhalation of the product or the effects of such exposure;
  - What did you do in response to each such suggestion, recommendation or requirement by your employer;
  - d. The precautions or warnings which accompanied the product;
  - e. Whether you were exposed to the product while using it or while others were using it, or both;
  - f. The purpose for, and the manner in which, the product was being used during each of the times of your exposure;
  - g. The duration of your exposure to the product;

- h. Whether your exposure was indoors or outdoors; and a description of the container or packaging in which each product was stored when not in use; and
- A description of the container or packaging in which each product was stored when not in use.

RESPONSE: Objection, this interrogatory is over broad and unduly burdensome in asking Plaintiff to recall each and every product he may have been exposed to over his entire work life. Subject to and without waiving these objections, the response to this interrogatory may be better developed through the deposition of Plaintiff and Plaintiff's co-workers.

32. If any of your employers/contractors ever suggested, recommended or required that you should use any device to reduce your possible exposure to, or inhalation of, silica identify each such employer when the suggestion, recommendation or requirement was first made, the type, make and model of each device referred to in each suggestion, recommendation or requirement and what you did in response to each such suggestion, recommendation or requirement.

**RESPONSE:** Objection. This interrogatory may be better developed through the deposition of the Plaintiff and Plaintiff's co-workers.

- 33. Describe each area for each respective employer/contractor in which you believe you used an abrasive blasting product or Respiratory Protection Device manufactured by Defendants at any time including but not limiting to:
  - a. The size and location of such area;
  - b. Whether such areas were open and exposed to free flow of air;
  - c. Whether such areas were enclosed or indoors;
  - d. Whether ventilation or other respiratory protection was provided and the nature and origin of such ventilation or other respiratory protection (e.g. exhaust fans, open doors, open windows, forces air, respirators, hoods, etc.);
  - e. If provided, the type of respiratory protection provided and whether and how often you used such respiratory protection;
  - Other activities taking place in and around such area where abrasive blasting was taking place; and
  - g. The number and identity of other blasters, pot tenders, and other workers in such areas.

RESPONSE: Objection, this request is over broad and unduly burdensome in asking that the Plaintiff to recall the requested information for his entire work life. Subject to and without waiving these objections, please see any employment records from the Plaintiff's employers.

34. Describe any abrasive blasting instruction and training you received, including but not limited to: (a) any certification(s) obtained by the plaintiff and any blasting process or processes for

which such certification(s) was obtained and provide the date(s) when any such certification(s) was obtained; (b) the courses or areas covered by any classroom instruction; (c) field or apprenticeship instructions; (d) the nature of the instruction or training regarding the use of abrasive-blasting; (e) the nature of the instruction or training regarding the potential danger of inhalation of dust particles during the blasting process and (f) the identity of any instructor involved in providing any such training, instruction or certification.

**RESPONSE:** Objection, this interrogatory is over broad and unduly burdensome. Subject to and without waiving these objections, the response to this interrogatory may be better developed through deposition of Plaintiff and Plaintiff's co-workers.

35. Please identify each and every local, state, national or industrial code or standard and any specific provision thereof that you contend any defendant failed to comply with in the manufacture or sale of any abrasive blasting material, equipment, or product to which you contend you were exposed or contributed to your exposure of any allegedly harmful dust and/or particulate.

**RESPONSE:** Objection, over broad and unduly burdensome. Subject to and without waiving prior objections, see Plaintiff's response to Interrogatory No. 29. See Plaintiff's latest complaint on file in this case. For documents evidencing unsafe characteristics, see Plaintiff's Exhibit List, which will be filed under separate cover. Also, this interrogatory requires expert testimony.

- 36. Do you contend that Plaintiff was exposed to any toxic, hazardous, or injurious product(s), chemical, compound, mineral, fume, or other substance manufactured, distributed, or sold by a person or entity other than the defendants in this lawsuit which caused, contributed to, produced, or aggravated Plaintiffs alleged silicosis, asbestosis or other interstitial lung disease? If so, state:
  - a. The name of description of each such product;
  - The date(s) on which you contend Plaintiff was exposed to each such product;
     and
  - c. The name, address, telephone number, employer, and occupation of each person who may testify as to Plaintiffs alleged exposure to each such product.

**RESPONSE:** Objection, over broad and unduly burdensome. Subject to and without waiving said objection, all known defendants that may be responsible for Plaintiff's condition have been named.

37. State whether you claim that you were exposed to silica while performing work as a subcontractor or independent contractor or as an employee of a subcontractor or independent contractor at a facility owned by a third party. If so, please state (a) the name of your employer while you were performing this work, (b) the work sites at which you performed this work, including the specific location within the work site where you performed this work, (c) the dates on which you performed this work, (d) the specific task you were performing during this work and (e) whether you filed a claim for workers compensation as a result of your exposure to silica while performing this work.

**RESPONSE:** Objection, over broad and unduly burdensome. Subject to and without waiving prior objections, Plaintiff was never employed by subcontractor or independent contractor.

38. State whether you, either directly or through counsel, have at any time made an agreement or reached an understanding(s) (either tentative or final) with any current or former defendant or defendants regarding either the ultimate outcome of your claims against such defendant or defendants or the manner in which these cases, or some of them, will be tried. Your answer should include but not be limited to: settlement agreements, contingent settlement agreements, partial settlement agreements, releases, covenants not to sue, covenants not to execute, "Mary Carter" agreements, "high/low agreements, loan receipt agreements, sliding scale agreements, guaranteed verdict agreements and any similar agreements or understanding. Your answer specifically should include agreement(s) and/or understanding(s) in which you agreed to waive claims against any participating current or former defendant or defendants (for example, a claim for punitive damages) or in which any participating defendant agreed not to raise one or more defenses or not to contest certain elements of alleged liability, or in which the participating parties agreed to minimum and maximum amounts of compensatory liability, or in which the participating parties agreed not to disclose the terms of such agreements or understandings.

RESPONSE: Objection. This interrogatory seeks privileged information.

39. Please state the total amount of all damages for which you will seek recovery for by reason of the occurrence made the basis of this lawsuit.

RESPONSE: Plaintiff objects to Interrogatory number 39 in so far as it requests an itemization in each and every category of injury or damage and a maximum amount of damages sought for each category. Said interrogatory is unduly burdensome and overly broad. The purpose of this interrogatory is to attempt to foreclose plaintiff's proof of any element of legally recognized damages by failure to itemize such in answer to this interrogatory. Therefore, it is anticipatory and is merely calculated to form a basis for a later exclusion of proof. As time goes on, the development of damages will change and this aspect of this interrogatory is unduly burdensome in regard to the fact that it will require constant supplementation. Further, the plaintiff would show that certain items of damages are intangible and are not capable of exact calculation. Such elements of damages such as pain, suffering, mental anguish and the lie are best evaluated and best determined by the jury who will ultimately decide this case. Without waiving said objection, Plaintiff is seeking \$1,000,000 or the maximum allowed by law for past, present and future mental and physical suffering. In addition, the Plaintiff is seeking medical expenses and other economic damages to be developed throughout the litigation of this case.

40. If you have missed any work since the time of the incident in question, what days were missed and how much salary did you lose, insofar only as said loss of time was made necessary by the accident in question?

## RESPONSE: Not applicable.

41. Please identify the verbatim content and design of any warning, caution, or instruction which Plaintiff contends should have been provided with each abrasive blasting product/Respiratory Protection Device manufactured or sold by any defendant to which plaintiff claims he was exposed or used, and which Plaintiff contends contributed to any disease, illness, or medical condition for which he seeks compensation in this cause. For each warning identified, specify the manner in which any such warning, caution, or instruction should have been provided, that is whether it should have been provided on the product itself, on the product packaging, or in a separate document or insert.

RESPONSE: Objection. This interrogatory requires expert testimony.

42. State for each picture, slide, film or videotape produced in response to the Request for Production the name of the photographer and the date the picture, slide, film or videotape was made.

**RESPONSE:** Objection. Overly broad and unduly burdensome. This interrogatory is anticipatory and is being directed to the plaintiff at this time merely in an effort to later exclude information that may be relied upon which is not listed or furnished in response to this request. This interrogatory is motivated by an exclusionary motive. Without waiving the above and foregoing objection, the plaintiff would state that an effort is being made to itemize information, which is responsive to this interrogatory, and to file the same in the form of an exhibit list, which will be filed under separate cover at a later date.

43. Identify each person (and include in your identification the employer of each such person) whom you believe, or whom you have been told, may have previously contracted silicosis or any other physiological condition, respiratory limitation, illness or injury allegedly caused, contributed to, produced, or aggravated while performing the same or similar job duties as those that gave rise to your claims in this Lawsuit.

Note: The information sought in this Interrogatory is not dependent upon whether or not any such person may offer testimony at any deposition or at the trial of this cause. It is likewise not dependent upon whether or not any such person has sued any party, and is not dependent on whether or not such person has received any monetary recovery.

RESPONSE: Objection. Overly broad and unduly burdensome. The plaintiff objects to this interrogatory in so far as it requests an identification of each person who may have contracted the same occupational disease while performing the same or similar job duties without qualification as to whether or not these prior victims may have worked for the same employers at the same time the plaintiff so worked. The plaintiff further objects to that portion of the interrogatory which states that he would be required to identify each person he may have been told, previously contracted silicosis. This part of the interrogatory invades the attorney/client privilege as counsel of record may have extensive knowledge

regarding persons who have contracted silicosis who either worked for the same employers or in similar exposures.

44. Please identify (1) the substance of each and every complaint made by you or anyone else to your knowledge, prior to the filing of this lawsuit, regarding any abrasive blasting material, equipment or product manufactured or sold by any defendant to which plaintiff claims he was exposed and/or which he contends contributed to any disease, illness, or medical condition for which he seeks compensation in this cause, (2) the form in which any such complaint was made, that is whether it was oral or in writing, (3) the identity of each and every person to whom any such complaint was made, and (4) the date(s) of each and every such complaint.

**RESPONSE:** Plaintiff never made any complaints. Plaintiff used the equipment provided to him by his employers and followed all safety guidelines and rules of his employer.

45. State, in the form of an itemized list, special damages alleged in this action including, but not limited to, hospital charges, medical card provider charger, prescription/medicine charges, lost wages, etc. and identify the person or entity to whom each item of expense was paid or is owed.

RESPONSE: Plaintiff objects to interrogatory number 45 in so far as it requests an itemization in each and very category of injury or damage and a maximum amount of damages sought for each category. Said interrogatory is unduly burdensome and overly broad. The purpose of this interrogatory is to attempt to foreclose plaintiff's proof of any element of legally recognized damages by failure to itemize such in answer to this interrogatory. Therefore, it is anticipatory and is merely calculated to form a basis for a later exclusion of proof. As time goes on, the development of damages will change and this aspect of this interrogatory is unduly burdensome in regard to the fact that it will require constant supplementation. Further, the plaintiff would show that certain items of damages are intangible and are not capable of exact calculation. Such element of damages such as pain, suffering, mental anguish and the lie are best evaluated and best determined by the jury who will ultimately decide this case. The Plaintiff further objects as the Defendants mischaracterized and/or improperly defined the term special damages.

46. If you are making a claim for loss of earnings or impairment of earning power or capacity because of your alleged medical condition, describe the basis for that claim.

## RESPONSE: Not applicable.

47. Please describe the date, place and circumstances under which you first became aware of the illness or personal injury which you are claiming in this lawsuit or any symptom of such illness or injury, and how you became aware of such illness, personal injury or symptom, including but not limited to, the specific identity of each source of information providing to or leading to such awareness, any in change in your behavior, lifestyle or work habits.

 $\label{eq:RESPONSE: Objection. This interrogatory will be better developed through Plaintiff's deposition.$ 

48. Identify by name, address and telephone number all persons who assisted you in identifying the products to which you claim exposure or use or who will provide information about which products you claim exposure or use.

RESPONSE: Please see answer to interrogatory no. 2.

49. If you are answering as the personal representative for a deceased person, state thedate, city and state in which the decedents death occurred; the immediate and all contributing causes of death; whether an autopsy was performed; and, the city and state where there death certificate was completed. In lieu of an answer you may attach a legible, true and correct copy of the death certificate.

RESPONSE: Not applicable.

50. Identify each person you may call as a witness at trial and provide for each the full name, last known address and phone number.

RESPONSE: Objection. This interrogatory will be supplemented at the appropriate time.

51. Describe all dusts, chemicals, sprays, pesticides or other air borne materials to which you believe you have been exposed in your lifetime and for each exposure, give the date, the employer/contractor and the circumstances of each exposure.

**RESPONSE:** Objection, this interrogatory is over broad and unduly burdensome in asking the plaintiff to identify all chemicals, etc. he may have been exposed to during his entire lifetime.

- 52. Identify each person who you expect to call as an expert witness at trial, and for each such witness please give the following:
  - (a) The subject matter on which the expert is expected to testify;
  - (b) The substance of the facts and opinions to which the expert is expected to testify;
  - (c) A summary of the grounds for each opinion;
  - (d) The defendant against whom the experts testimony will be used;
  - (e) Whether any expert has tested an asbestos- and/or silica-containing product at your request and, if so, please state (1) the specific product tested, (2) the manufacturer of such product, and (3) the result and/or opinion of this expert.

RESPONSE: Objection. This interrogatory will be supplemented at the appropriate time.

53. Identify all persons, including fact witnesses, whom you know or believe have knowledge of facts relevant to the issues in this lawsuit.

RESPONSE: Objection. This interrogatory seeks privileged information. However, without waiving said objection, Larry McLawrence, James Barnes, Tyrone Hicks, Linda Chapman, James Hayes, Leanden Gavin, John McLaurin, Red Hardy, Sam Love, John Cole, Bobby Taylor, Tom Pittman, and Fred Pittman.

54. State whether the you attended a screening, meeting, testing or evaluation for the purpose of determining or assessing whether you had been exposed to asbestos and/or silica and/or have an asbestos and/or silica related disease.

**RESPONSE:** Objection. Screening is not a defined term; therefore, this interrogatory is vague and ambiguous.

- 55. For each and every time you attended a screening, meeting, testing or evaluation (collectively "screening) for the purpose of determining or assessing whether you had an asbestos and/or silica related injury, please identify the following:
  - a. the date the screening took place;
  - b. the location of the screening;
  - whether the screening was for determining whether plaintiff has an asbestos related injury or a silica related injury or both;
  - the entities (including without limitation law firms, screening companies, clinics, physicians, physicians offices or hospitals) involved in the screening; and
  - e. how you knew about the screening.

RESPONSE: See response to Interrogatory No. 54.

56. Identify all health care providers who have authorized, prescribed or ordered x-rays, biopsies and/or pulmonary function tests which you contend serve as a basis for this lawsuit. Please include the type of the tests and the dates such tests were authorized, prescribed or ordered.

RESPONSE: Plaintiff has attached executed medical authorizations. Plaintiff has been treated at the Dr. Louis Niece and Dr. John Partman, Hattiesburg Clinic, Hattiesburg, Mississippi; 2) South Central Regional Hospital in Laurel, Mississippi; and 3) Forrest General Hospital in Hattiesburg, Mississippi.

57. For every health care provider who you believe has expressed an opinion regarding whether the injuries or damages you are claiming in this lawsuit were caused by or related to exposure to asbestos and/or silica, identify those health care providers and all reports and/or tests that he/she has relied upon to formulate those opinions.

RESPONSE: Objection. This interrogatory seeks information that is privileged.

58. If you assert privilege or immunity from discovery as grounds for refusal to answer any interrogatory or request for production of documents set forth herein, please name the privilege or immunity asserted, provide a generic description of any documents as to which privilege or immunity is claimed, and explain in detail the grounds upon which said claim of privilege or immunity is based.

RESPONSE: This response will be supplemented.

## REQUESTS FOR PRODUCTION

1. All sales literature, advertising, promotional material, technical literature, warnings, material safety data sheets, labels, product records, shipping records, invoices, purchase orders, marketing records, NIOSH or OSHA documents, sales, records, internal memoranda, internal reports, minutes of meetings, or other documents of any defendant, any employee, any employer or any supplier which relate to and harmful dusts or particulate to which Plaintiff claims he was exposed, and/or to protective equipment or abrasive blasting equipment Plaintiff allegedly used.

**RESPONSE:** Plaintiff objects to this request as being over broad and unduly burdensome. There are literally thousands of pages of documents potentially responsive to this request. Please see Plaintiffs Exhibit List that will be filed under separate cover at a later date.

2. All photographs, slides, films, or videotapes that, in whole or in part, relate to the illness, disease, or condition in question or damages that are made the basis of this Lawsuit, including, but not limited to, any photographs portraying in any manner and to any extent any fact which Plaintiff contends proves the cause of such illness, disease, or condition or any element of damage alleged in this action. For each photograph, slide, film, and videotape, provide all documents which will reveal the date of the foregoing items and the person or entity shooting or making the same.

RESPONSE: Plaintiff has no documents responsive to this request at this time.

3. All documents and tangible things concerning any other lawsuit which you have on file or are aware of arising out of the same factual circumstances as this Lawsuit, including the parties to such lawsuit, the Court in which such lawsuit is filed, and the substance of the claim in such lawsuit.

RESPONSE: Plaintiff has no documents responsive to this request.

4. Please produce all prior depositions of the above referenced Plaintiff, including but not limited to depositions taken in Plaintiffs silica lawsuit. (This does not include the deposition taken in this case).

## **RESPONSE:** Not applicable.

 All documents which refer or relate to use of nicotine or smoking by Plaintiff, whether such smoking involved tobacco, snuff, marijuana, cigarettes, cigars, or other substances.

RESPONSE: Plaintiff does not have any documents responsive to this request at this time. Plaintiff is providing medical authorizations to order any additional medical records. This authorization is being provided solely upon the condition that any records obtained with this authorization be provided to plaintiffs counsel within 10 days of receipt of records.

6. All documents which refer or relate to the use, inhalation, injection, or ingestion by Plaintiff of any legal or illegal drugs or narcotic agents, including, but not limited to, cocaine, crack cocaine, heroin, PCP, hallucinogens, barbiturates or amphetamines.

RESPONSE: Plaintiff does not have any documents responsive to this request.

7. All documents and tangible things which refer or relate to in any way Plaintiff having been accepted for, or declined for, tuned down, or rated by any company for accident, health, or life insurance for a period beginning five (5) years prior to the date of his alleged first exposure to the Alleged Toxic Materials.

RESPONSE: Plaintiff does not have any documents responsive to this request.

8. All documents which will reveal each license Plaintiff possesses or has possessed, whether issued by any agency (governmental or non-governmental) or other person, to perform any profession, trade, or occupation, including, but not limited to, documents which will disclose the date the license was issued, the name and address of the agency which issued the license, and the profession, trade, or occupation in which the license was issued.

RESPONSE: Plaintiff does not have any documents responsive to this request.

9. All documents reflecting any information regarding Plaintiffs work history, including names of employers, names of co-workers, dates of employment, places of employment, and/or job description, including but not limited to copies of all Plaintiffs payroll, personnel, or union records.

**RESPONSE:** See Plaintiff's authorization to obtain Social Security earnings records. Plaintiff is also providing counsel with an authorization to obtain payroll/personnel records from his employers. This authorization is being provided solely upon the condition that any records obtained with this authorization be provided to plaintiff's counsel within 10 days of receipt of records.

10. A copy of any application for employment signed, prepared, or filed by Plaintiff, or on his behalf, with any prospective employer since the occurrence made the basis of this Lawsuit.

RESPONSE: Please see response to No. 9.

11. All documents or tangible things of any kind whatsoever which evidence, show, or set forth Plaintiffs specific job duties for each of his employers.

RESPONSE: Plaintiff is providing counsel with an authorization to obtain payroll/personnel records from his employers. This authorization is being provided solely upon the condition that any records obtained with this authorization be provided to plaintiffs counsel within 10 days of receipt of records.

12. A copy of any application signed, prepared, or filed by Plaintiff with the Mississippi Employment Commission for purposes of obtaining unemployment benefits after the occurrence made the basis of this Lawsuit.

RESPONSE: Plaintiff does not have any documents responsive to this request at this time.

13. All documents which reflect that Plaintiff was employed at any time by any of the defendants, or worked at any time on any job site owned by or under the control of any of the defendants.

**RESPONSE:** The Plaintiff was not employed by any of the Defendants. See Plaintiffs authorization to obtain Social Security earnings records attached with these interrogatory responses. This authorization is being provided solely upon the condition that any records obtained with this authorization be provided to plaintiff's counsel within 10 days of receipt of records.

14. All documents which support Plaintiffs allegations that he was exposed to silica dust from abrasive blasting materials or equipment, including, but not limited to, any defendants products.

RESPONSE: Plaintiff does not have any documents responsive to this request at this time. As discovery is in its infancy, this request will be supplemented after the deposition of Plaintiff and deposition of co-workers, supervisors, and purchasing agents. This response requires expert testimony. Also see Plaintiff's medical records.

15. All documents which support Plaintiffs contention that he has been disabled as a result of any disease, illness or medical condition allegedly caused or contributed to by any of the defendants products.

RESPONSE: See response to Request for Production No. 14.

- 16. All documents which support Plaintiffs allegations that abrasive materials and/or abrasive blasting equipment was used on any job site where the plaintiff claims to have been exposed to silica dust.
- RESPONSE: Plaintiff does not have any documents responsive to this request at this time. As discovery is in its infancy, this request will be supplemented after the deposition of Plaintiff and deposition of co-workers, supervisors, and purchasing agents.
- 17. All documents which support Plaintiffs allegation that he worked with, around or in the immediate vicinity of abrasive blasting, or that plaintiff wore any Respiratory Protection Device (e.g. mask, respirator, air supplied hood) or other respiratory protective device in such an environment.
- **RESPONSE:** Plaintiff does not have any documents responsive to this request at this time. As discovery is in its infancy, this request will be supplemented after the deposition of Plaintiff and deposition of co-workers, supervisors, and purchasing agents.
- 18. All documents, literature, manuals, and/or pictures evidencing Plaintiffs use of abrasive blasting equipment and any abrasive blasting materials.
- **RESPONSE:** Objection, over broad and unduly burdensome. Subject to and without waiving prior objections, Plaintiff does not have any documents responsive to this request at this time. As discovery is in its infancy, this request will be supplemented after the plaintiff's deposition, depositions of co-workers, and depositions of supervisors.
- 19. All documents evidencing Plaintiffs use of protective equipment, including but not limited to Respiratory Protection Devices when exposed to silica dust or other allegedly harmful particulate.
- **RESPONSE:** Objection, over broad and unduly burdensome. Subject to and without waiving prior objections, Plaintiff does not have any documents responsive to this request at this time. As discovery is in its infancy, this request will be supplemented after the plaintiff's deposition, depositions of co-workers, and depositions of supervisors.
- 20. All photographs, electronic recordings, videotapes, or diagrams of Plaintiffs work site or any products which Plaintiff alleges he used.

RESPONSE: Plaintiff does not have any information responsive to this request.

21. All documents or tangible things of any kind whatsoever regarding any training, instruction or warning provided to Plaintiff with respect to the use of abrasive blasting materials, protective or abrasive blasting equipment including, but not limited to, all manuals, pamphlets,

booklets, literature, correspondence, and other written documents or tangible things providing for or relating to any such instructions.

RESPONSE: Objection, over broad and unduly burdensome. Subject to and without waiving prior objections, Plaintiff does not have any information responsive to this request.

22. All documents or tangible things of any kind whatsoever regarding any warnings or instruction given to Plaintiff with respect to exposure to silica dust and/or other allegedly harmful particulate, and the use of protective clothing and/or equipment and abrasive blasting equipment for use when exposed to the abrasive blasting materials. This also includes, but is not limited to, any and all warnings, labels, or other instructions that you have in your possession that were place upon any Respiratory Protection Device or other equipment.

RESPONSE: Objection, overly broad and unduly burdensome. Subject to and without waiving prior objections, Plaintiff does not have any information responsive to this request.

23. Any document, manual, pamphlet, and/or brochure evidencing a written or oral safety program, HAZCOM program, respiratory program at any of Plaintiffs employers or used at any work site where plaintiff worked and at which he claims exposure to harmful dusts and/or particulate. If no such program existed for any of the employers whom or job sites where plaintiff worked, please indicate this as well.

RESPONSE: Plaintiff does not have any information responsive to this request.

24. All documents that include any advice, suggestions or recommendation of techniques, methods or equipment which would serve to reduce or guard against the allegedly harmful exposure any dust and/or particulate generated during the blasting process.

RESPONSE: Plaintiff does not have any information responsive to this request.

25. All documents or tangible things regarding any complaints made by or on behalf of Plaintiffs to any of the Defendants, Plaintiffs employers, or to other persons, firms, organizations or corporations, at any time whatsoever with respect to the allegedly harmful dust and particulate and/or protective or abrasive blasting equipment including, without limitation, all correspondence, records of telephone conversations, meetings, discussions, or conferences, and all other documents or tangible things which evidence, show or may show, or which may set forth the nature of any complaints, when such complaints were made, to whom such complaints were directed, and the nature of any remedies recommended or performed, and whether such remedies were made, whether such documents and tangible things contained all or some of the foregoing, in whole or in part.

RESPONSE: Plaintiff does not have any information responsive to this request.

26. All documents or tangible things of any kind whatsoever which evidence, show, or set forth the levels or concentrations of exposure to silica dust and/or other allegedly harmful particulate which Plaintiff contracted at each of his employers, and the dates and lengths of time for each such exposure.

RESPONSE: Plaintiff does not have any information responsive to this request.

27. All documents received by you, or generated in connection with, any screening or testing for disease, illness or medical condition allegedly due to exposure to dusts or particulate, including: appointment forms or letters; questionnaires; work, exposure or medical history forms; correspondence; pulmonary function test results; x-ray reports, MRI reports, PET scam reports; CAT scan reports; diagnostic reports; billing or payment records; and contract between any attorney(s) and the testing entities.

**RESPONSE:** Plaintiff is providing counsel with a medical authorization to obtain additional records. This authorization is being provided solely upon the condition that any records obtained with this authorization be provided to plaintiff's counsel within 10 days of receipt of records.

All medical questionnaires or forms completed by Plaintiff for any employer.

RESPONSE: Objection, overly broad and unduly burdensome. Subject to and without waiving prior objections, if there is any information responsive to this request it may be obtained from plaintiff's employer by requesting personnel records with the authorization being provided by plaintiffs counsel. This authorization is being provided solely upon the condition that any-records obtained with this authorization be provided to plaintiffs counsel within 10 days of receipt of records.

29. All documents completed by Plaintiff for any insurance company that requested information regarding plaintiffs medical history.

RESPONSE: Plaintiff does not have any information responsive to this request.

30. All documents generated by any physician which indicate, refer to, relate to or evidence the physicians opinion that exposure to any product, substance or agent caused or contributed, in any way to Plaintiffs injuries, disease, illnesses or death that are the basis of this lawsuit.

RESPONSE: See Plaintiff's medical records. Plaintiff has executed medical authorizations.

31. If chest x-rays, CAT, MRI, NMR, or PET scans or other non-invasive imaging diagnostic pictures were taken of Plaintiffs chest at any time beginning ten (10) years prior to the date of his alleged first exposure to silica dust and/or any other allegedly harmful particulate, provide each x-ray, scan, or other diagnostic picture and all documents which refer to or will disclose the name and address

of the person who took the x-ray, scan, or other diagnostic picture, the dates each were taken, and what each disclosed.

**RESPONSE:** Objection, this request is over broad and unduly burdensome in asking Plaintiff about every medical exam and/or treatment 10 years prior to the first date of his alleged exposure to silica dust. Subject to and without waiving prior objections, see the attached medical records. Plaintiff is also providing counsel with a medical authorization to obtain additional records.

32. All pathology specimens, and other records, documents or tangible things generated or maintained by any medical practitioner or medical facility which treated or cared for Plaintiff for a period beginning ten (10) years prior to the date of his alleged first exposure to silica dust and/or any other allegedly harmful particulate.

RESPONSE: Objection, this request is over broad and unduly burdensome in asking Plaintiff about every medical exam and/or treatment he has had 10 years prior to the date of his alleged first exposure to silica dust. Subject to and without waiving prior objections, see the attached medical records. Plaintiff is also providing counsel with a medical authorization to obtain additional records.

33. All reports and other documents from each medical practitioner who examined, counseled or treated Plaintiff in connection with any claim for Social Security Disability, state disability, Social Security insurance, major medical insurance, Blue Cross, or any similar group.

RESPONSE: Plaintiff does not have any documents responsive to this request at this time.

34. All reports and other documents concerning treatments received by Plaintiff for any nervous breakdown, mental illness, or other psychiatric illness during the period of time beginning five (5) years prior to the date of his alleged first exposure to silica dust and/or any other allegedly harmful particulate, and continuing to the present.

# RESPONSE: Not applicable.

35. All documents and tangible things which support your claim, if any, for loss, injury, or damage to consortium (defined as any alleged impairment or damage to affection, solace, comfort, companionship, society, assistance, sexual relations, emotional support, love, and felicity necessary to support a successful marriage).

RESPONSE: Objection, over broad and unduly burdensome. Subject to and without waiving prior objections, Plaintiff is providing you with an authorization to obtain medical/payroll records. These authorizations are being provided solely upon the condition that any records obtained with this authorization are to be provided to Plaintiffs counsel within 10 days of receipt of said records at no expense to Plaintiffs counsel.

36. All documents and tangible things which support your claim, if any, for loss or damage to household services (defined as any alleged impairment of the performance of household and domestic duties by a spouse to the marriage).

RESPONSE: Objection, over broad and unduly burdensome. Subject to and without waiving prior objections, Plaintiff is providing you with an authorization to obtain medical/payroll records. These authorizations are being provided solely upon the condition that any records obtained with this authorization are to be provided to Plaintiffs counsel within 10 days of receipt of said records at no expense to Plaintiffs counsel.

37. A copy of Plaintiffs marriage certificate.

RESPONSE: Not Applicable.

38. All documents including, but not limited to, statements, invoices, bills, insurance claims and records of payment for medical examination, treatment, testing or diagnosis that form part of Plaintiffs claim for actual damages in this action.

RESPONSE: Objection, overly broad and unduly burdensome. Subject to and without waiving prior objections, Plaintiff does not have any documents responsive to this request at this time. However, Plaintiff is providing counsel with a medical authorization to obtain the requested information.

39. All documents which will reveal any out-of-pocket expenses which you claim resulted from the incidents which are the basis of this Lawsuit.

**RESPONSE:** Plaintiff is providing you with an authorization to obtain billing records, which will provide this information. This authorization is being provided solely upon the condition that any records obtained with this authorization are to be provided to Plaintiffs counsel within 10 days of receipt of said records at no expense to Plaintiff's counsel.

40. All documents which indicate, refer to, relate to or evidence your allegations that Plaintiff experienced a loss of earning capacity as a result of the illness made the basis of this lawsuit.

RESPONSE: The only documents responsive to this request are the Plaintiff's Social Security Earnings records, employment records, and medical records. You are being furnished authorizations to obtain these records. These authorizations are being provided solely upon the condition that any records obtained with these authorizations are to be provided to Plaintiff's counsel within 10 days of receipt of said records at no expense to Plaintiff's counsel.

41. All documents which will reveal any days of work missed by Plaintiff and the earning loss resulting from such lost work time which you claim resulted from the illness, injury, or condition made the basis of this lawsuit.

**RESPONSE:** Plaintiff is providing you with authorizations to obtain payroll/personnel records and income tax records, which will provide this information. This authorization is being provided solely upon the condition that any records obtained with this authorization are to be provided to Plaintiff's counsel within 10 days of receipt of said records at no expense to Plaintiff's counsel.

42. A copy of any applications or claim forms filed by Plaintiff or on his behalf with any health insurance company for reimbursement or payment of any medical or funeral expenses incurred as a result of the injury or disease made the basis of this Lawsuit.

**RESPONSE:** Objection. This information is not discoverable due to the collateral source rule. The extent of insurance coverage is not relevant, nor is it likely to lead to discoverable information.

43. Copies of all insurance policies, documents, or memoranda evidencing coverage of, or payment for, any damages allegedly arising from the occurrence made the basis of this lawsuit. This request is intended to include, but is not limited to Social Security Insurance, major medical insurance, Blue Cross, or any similar group.

**RESPONSE:** Objection, overly broad and unduly burdensome. Subject to and without waiving prior objections, the extent of insurance coverage is not relevant, nor is it likely to lead to discoverable information.

44. Plaintiffs federal and state income tax returns for each of the past ten years.

**RESPONSE:** Plaintiff is providing an authorization to obtain said tax records. This authorization is being provided solely upon the condition that any records obtained with this authorization are to be provided to Plaintiff's counsel within 10 days of receipt of said records at no expense to Plaintiff's counsel.

45. All documents reflecting any payments from a non-party that have been made to you for any of the damages you allege you suffered from the alleged toxic materials.

RESPONSE: Objection. This response seeks privileged information.

46. Any and all settlement agreements, contingent settlement agreements, partial settlement agreements, releases, covenants not to sue, covenants to execute, Mary Carter agreements, "high/low" agreements, loan receipt agreements, sliding scale agreements, guaranteed verdict agreements and any similar agreements and understanding. You specifically should include agreements or understanding in which you agree to waive claims against any participating current or former

defendant or defendants (for example, a claim for punitive damages) or in which any participating defendant agrees not to raise one or more defenses or not to contest certain elements of alleged liability, or in which the participating parties agreed to minimum and maximum amounts of compensatory liability or which the participating parties agree not to disclose the terms of such agreements or understanding.

RESPONSE: Objection. This response seeks privileged information.

47. All documents referring to, relating to or evidencing communications between any of the defendants and plaintiffs.

RESPONSE: Objection. This response seeks privileged information.

48. All documents referring to, relating to or evidencing information provided by any of the defendants to plaintiffs.

RESPONSE: Objection. This response seeks privileged information.

49. All documents generated by or from any of the defendants as well as all documents created by any of the defendants which are in the Plaintiffs possession, custody or control or which are within the possession, custody and control of any agent or representative of the Plaintiffs regardless of from whom these documents were obtained.

RESPONSE: Objection. This response seeks privileged information.

50. Produce all documents you have relating to any Respiratory Protection Devices you contend you were when you were exposed to Alleged Toxic Material, including the device itself.

RESPONSE: Objection. This response seeks privileged information.

51. Produce all documents relating to each and every defect you contend existed in any Respiratory Protection Devices at the time you contend you used it and was exposed to the Alleged Toxic Material.

RESPONSE: Objection. This response seeks privileged information.

52. Produce all documents relating to how any alleged inadequate warnings caused or contributed to your alleged injuries or damages.

RESPONSE: Objection. This response seeks privileged information.

53. For each Plaintiff original, fully executed authorizations in the form attached to allow defendants to obtain social security records; education records; workers compensation records; military records; tax records; medical and history records; tissue specimens and/or tissue slides; x-rays, CT scans, MRI scans, PET scans, PFT reports, or any other medical tests (plus reports of interpretations of the same) payroll pension and personnel records; union records; and Veteran Association records.

**RESPONSE:** Please see attached authorizations. These authorizations are being provided under the condition that any records obtained with these authorizations are to be provided to plaintiff's counsel within 10 days of receipt of said records at no expense to Plaintiff's counsel.

54. Any and all reports, papers, records, statistics, literature, or other document on which any of your expert witness will base any part of his or her opinion(s) to be offered in this case.

RESPONSE: Objection. Overly broad and unduly burdensome. This Request is merely anticipatory and is being directed to the plaintiff at this time merely in an effort to later exclude information that may relied upon by Plaintiff's expert witnesses which is not listed or furnished in response of this request. This request is motivated by an exclusionary motive. Without waiving the same, the plaintiff would state that this information may be better discovered through oral depositions of the plaintiffs experts. Without waiving the above and foregoing objection, the plaintiff would state that an effort is made to itemize information, which is responsive to this request, and to file the same in the form of an exhibit list. Plaintiff exhibit list will be filed under separate cover.

55. Any and all documents, writings, and/or tangible things, including but not limited to all summaries, charts, video tapes, and/or visual aids which you intend to use at trial or offer into evidence at the trial of this matter.

 $\label{eq:RESPONSE: Plaintiff will supplement in accordance with the Mississippi Rules \textit{ of Civil Procedure.}$ 

56. Any films, photographs, pictures, video tapes, audio tapes, or other recording made in connection with any examination, testing or diagnosis of the plaintiffs.

**RESPONSE:** Objection, over broad and unduly burdensome. Subject to and without waiving prior objections, plaintiff does not have any information responsive to this request.

57. To the extent not otherwise requested herein, all documents, as to each defendant, which Plaintiff identified in his responses to the Interrogatories.

**RESPONSE:** Objection. Overly broad and unduly burdensome, and repetitive of other requests. Without waiving said objection, see all items referenced in plaintiffs exhibit list which will filed under separate cover at a later date. Plaintiff would further object to this request because it does

not refer to a particular class or type of document. Plaintiff further objects to this request to the extent it may invade the attorney work product privilege.

58. All documents that reflect any claim for disability, injury or physical condition arising out of Plaintiffs military service.

RESPONSE: Not applicable.

59. All documents provided plaintiff by any labor union or organization that included information about silicosis or any other silica-related condition and or asbestosis or any other asbestosrelated condition.

RESPONSE: See response to Request for Production No. 59.

60. All packaging materials or photographs, video tapes, or slides of packaging materials the Plaintiff alleges were used in packaging silica or asbestos products to which Plaintiff allegedly was exposed.

**RESPONSE:** Other than the CSR Litigation Book, Plaintiff does not have any documents responsive to this request.

61. Resumes of all experts Plaintiff expects to call as witnesses at the trial of the action or that were specifically employed or retained in connection with this civil action and are not expected to be called as witnesses.

**RESPONSE:** Plaintiff will supplement resumes pursuant to the Mississippi Rules of Civil Procedure.

62. All documents reflecting any information regarding Plaintiffs work history, including names of employers, names of co-workers, dates of employment, places of employment, or job description.

**RESPONSE:** Plaintiff is providing counsel with an authorization to obtain payroll/personnel records from his employers. This authorization is being provided solely upon the condition that any records obtained with this authorization be provided to plaintiffs counsel within 10 days of receipt of records.

63. All documents which support Plaintiffs contention that he has been disabled as a result of any condition allegedly caused or contributed to by any of the defendants.

RESPONSE: Objection. See medical records that Plaintiff has provided authorization for herein. In addition, this response requires expert testimony.

64. Any product or respiratory protection devise ever used by Plaintiff in the process of sandblasting still in the possession of the Plaintiff, or member of the Plaintiffs family.

RESPONSE: Objection, over broad and unduly burdensome. Subject to and without waiving prior objections, Plaintiff does not have any respiratory equipment in his possession.

65. Any and all documents, letters, reports, or other materials identified in your answers to the foregoing Interrogatories.

RESPONSE: Objection. See documents attached.

66. Any and all documents created, used or reviewed at any screening, meeting, testing or evaluation listed in Interrogatory 2, including but not limited to occupational and/or medical questionnaires, A-sheets, x-ray films, pulmonary function test reports, B-reader reports, x-ray review reports, x-ray prescriptions, PFT prescriptions, diagnostic/prognostic reports, exposure history reports, "sign in or "sign out" sheets, PFT logs, PFT calibration records, attorney selection sheets, or waivers.

RESPONSE: Please see attached authorizations. These authorizations are being provided under the condition that any records obtained with these authorizations are to be provided to plaintiff's counsel within 10 days of receipt of said records at no expense to Plaintiff's counsel.

67. All documents which you or anyone on your behalf received from any testing entity, clinic, physician, physicians office or hospital who has performed or reviewed x-rays, pulmonary function tests, B-reads, x-ray reviews, biopsies and/or physical examinations on you for the purpose of determining or assessing whether you have been exposed to asbestos and/or silica and/or have an asbestos and/or silica related disease.

RESPONSE: See response to Request for Production No. 66.

68. All documents which you have received from any lawyer or law firm regarding any occupational and/or medical questionnaires, x-rays, pulmonary function tests, B-reads, x-ray reviews, biopsies and/or physical examinations on you for the purpose of determining or assessing whether he was exposed to asbestos and/or silica and/or have an asbestos and/or silica related disease.

RESPONSE: Objection. This requests seeks privileged information. Without waiving said objection, see response to Request for Production No. 66.

69. All documents (including but not limited to occupational and medical questionnaires and/or histories) provided to you, filled out or answered for any testing entity, clinic, physician, physicians

office or hospital who performed or reviewed x-rays, pulmonary function tests, B-reads, x-ray reviews, biopsies and/or physical examinations on you to determine or assess whether you had been exposed to asbestos and/or silica or have an asbestos and/or silica related disease.

RESPONSE: Please see attached authorizations. These authorizations are being provided under the condition that any records obtained with these authorizations are to be provided to plaintiff's counsel within 10 days of receipt of said records at no expense to Plaintiff's counsel.

70. All orders, prescriptions or authorizations signed by a healing arts practitioner or physician who authorized, ordered or prescribed any x-ray, biopsy or pulmonary function test which you contend serves as a basis for your lawsuit.

RESPONSE: No such documents exist.

71. Any and all documents regarding and/or identifying all persons who attended any screening, meeting, testing or evaluation listed in Interrogatory 2, including but not limited to occupational and/or medical questionnaires, A-sheets, x-ray films, pulmonary function test reports, B-reader reports, x-ray review reports, x-ray prescriptions, PFT prescriptions, diagnostic/prognostic reports, exposure history reports, "sign in or "sign out sheets, PFT logs, PFT calibration records, attorney selection sheets, or waivers.

**RESPONSE:** Objection. This request seeks privileged information. Without waiving said objection, Plaintiff does not have any documents related to this request at this time.

72. All invoices and payment records pertaining to any screening, meeting, testing or evaluation listed in Interrogatory 2.

RESPONSE: See response to Request for Production No. 71.

This, the	13ta	day of Au	quat	, 2008.
-----------	------	-----------	------	---------

Respectfully submitted,

JOHN MCGILBERRY, PLAINTIFF

OHN MCGILBERRY

As to All Objections and Responses to Requests for Production of Documents:

By:

TIMOTHY W. PORTER, Attorney for Plaintiff

### Of Counsel:

Timothy W. Porter, MSB No. 9687 Patrick C. Malouf, MSB No. 9702 John T. Givens, MSB No. 101561 PORTER & MALOUF, P.A. Post Office Box 12768 Jackson, Mississippi 39236-2768 Telephone: (601) 957-1173 Facsimile: (601) 957-7366

R. Allen Smith, Jr., MSB No. 99984 THE SMITH LAW FIRM, P.L.L.C. 681 Towne Center Boulevard, Suite B Ridgeland, Mississippi 39157 Telephone: (601) 952-1422 Facsimile: (601) 952-1426

COUNTY OF JONES

Personally came and appeared before me the undersigned in and for the jurisdiction aforesaid, the within named, JOHN MCGILBERRY, who being by me, first duly sworn, and states on oath that the matters facts and things alleged contained and set forth in the above and foregoing instrument are true and correct as therein stated.

This, the 13th day of Lee Quant , 2008

JOHN MCGILBERRY

SWORN AND SUBSCRIBED before me this, the 3 day of Lucius

. 2008

BART GAVIN, Circuit Clerk

(Seal)

Charlatte Holdisco N.C.

My Commission Expires:

My Commission Expires 1st Monday, Jan. 2012

1 .\_\_

1	IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI
2	SECOND JUDICIAL DISTRICT
3	
4	TOWN MOOTE DEEDLY
5	JOHN MCGILBERRY
6	VERSUS NO. 2007-16-CV5
7	PANGBORN CORPORATION, ET AL
8	
9	THE FOLLOWING IS A TRUE AND CORRECT TRANSCRIPT OF
10	THE MOTION HEARING HELD IN THE ABOVE STYLED AND
11	NUMBERED CAUSE BEFORE THE HONORABLE BILLY JOE
12	LANDRUM, CIRCUIT JUDGE FOR THE EIGHTEENTH CIRCUIT
13	COURT DISTRICT OF THE STATE OF MISSISSIPPI, ON THE
14	17TH DAY OF AUGUST, 2009.
15	
16	APPEARANCES:
17	ON BEHALF OF THE PLAINTIFFS:
18	John T. Givens, Esquire Porter & Malouf, P.A.
19	P.O. Box 12768
20	Jackson, MS 39236 ON BEHALF OF THE DEFENDANTS:
21	
22	Clyde L. "Chaney" Nichols, III, Esquire Scott Sullivan Streetman & Fox, P.C.
23	P.O. Box 13847 Jackson, MS 39236
24	Katherine McKee Surkin, Esquire
25	Page Mannino Peresich & McDermott, PLLC P.O. Box 166450 Jackson, MS 39236

	1
1	MR. NICHOLS: Good afternoon, Your
2	Honor. Chaney Nichols on behalf of
3	American Optical Corporation. And we're
4	going forward with our motion for summary
5	judgment.
6	MS. SURKIN: Katherine Surkin on
7	behalf of Empire Abrasive Equipment
8	Corporation, and we also have a motion for
9	summary judgment.
10	THE COURT: Why was I handed this
11	reply brief in McGilberry
12	MR. NICHOLS: Your Honor, it was
13	filed today
14	THE COURT: McGilberry versus
15	Pangborn?
16	MR. NICHOLS: Yes, sir. That's our
17	reply brief in support of our motion. We
18	filed it today after receiving the
19	response to our motion Friday.
20	THE COURT: This is the case coming
21	up?
22	MR. NICHOLS: Yes, sir.
23	THE COURT: Okay. Go ahead.
24	MR. NICHOLS: If it please the Court,
25	Your Honor?

THE COURT: Speak up.

MR. NICHOLS: Okay, sir. I'll start with the procedural history in this case. This is a silicosis case that was originally filed by Mr. McGilberry in a multi-plaintiff action styled George Buffington versus Pulmosan Safety Equipment Corporation that was filed on September 6th, 2002.

While a plaintiff in the Buffington matter, Mr. McGilberry was deposed on April 5th and April 6th of 2004 regarding his alleged exposure to silica-containing products during his work history. At his deposition Mr. McGilberry was questioned at great length about a fact sheet that was provided to the defendants in the case prior to his deposition as well as his product usage throughout his work history.

I attended Mr. McGilberry's

deposition on behalf of American Optical

Corporation, a company that manufactured

safety equipment and respiratory

protection devices. And over the course

of two days of deposition testimony, Mr.

McGilberry testified that only one type of product was used by him for respiratory protection at each of his work sites.

This product was described by Mr.

McGilberry as a disposable dust mask with a single strap attached to it. Mr.

McGilberry testified that he did not know who manufactured the dust mask that he used. And further, over the two days of testimony Mr. McGilberry failed to identify American Optical as the manufacturer of any of the products that he allegedly used.

Based upon his failure to identify an American Optical product during his deposition, I requested a voluntary dismissal of Mr. McGilberry's claims.

Before that was achieved, however, the George Buffington case was dismissed pursuant to the Canadian National decision It was dismissed on May 15th, 2006. Mr.

McGillberry's claims were re-filed a year later on May 14, 2007 in the instant case. In this case Mr. McGilberry alleges exposure to silica at the same work sites

that he testified to back in April of 2004.

Plaintiff will argue to the Court today that very little discovery has been conducted in this matter since it was filed two years ago and that the plaintiff has not even been deposed yet in this matter. But, Your Honor, this is because Mr. McGilberry has already been deposed at great length over the course of two days regarding his alleged silica exposure at the exact same work sites that are in the instant case.

Now based upon that testimony I filed this motion for summary judgment as Mr.

McGilberry clearly testified in his deposition that he only used a dust mask with a single strap. Further, he testified that he didn't know who manufactured that mask that he used.

Now, Your Honor, there are multiple manufacturers on the market who make dust masks with these single straps, however, American Optical is not one of them. And attached to my motion is an affidavit from

our corporate rep stating that American Optical has never manufactured a single strap dust mask.

Now, plaintiff's counsel will come before you today, Your Honor, and say that perhaps plaintiff was mistaken on confused during his deposition. But, Your Honor, we would submit that it's clear from his deposition testimony that he was not. He was specifically asked about the number of straps on the dust mask for each and every site in his deposition.

THE COURT: Well, why would he argue that if that's what he said? Y'all can't resolve these kinds of things between yourself if a man says one thing and you going to argue about what he says?

MR. NICHOLS: Well, it didn't become an issue, and I had to file my motion because he wouldn't voluntary dismiss me. We received their response on Friday with a new affidavit. And I'll address the affidavit, Your Honor. But numerous allegations were raised for the first time Friday in the plaintiffs' response,

1

2

3

4

5

6

7

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

however, it doesn't comport with the plaintiff's deposition testimony of five years ago.

Now, we filed this motion back on June 9th. The plaintiff didn't respond until Friday when I received his response and an attached affidavit wherein plaintiff now claims that he used American Optical products as specified in the sworn facts sheet from his prior case. Your Honor, what was in the plaintiff's prior fact sheet is totally irrelevant because we deposed plaintiff after receiving that sheet, and he testified that he only used single strap dust masks and he didn't know who manufactured them. So, it doesn't matter what was in the fact sheet from his prior case because his subsequent deposition testimony is the best evidence in this case.

Now, Your Honor, it's our motion that the affidavit that's attached to the plaintiff's response should be stricken because it's improper and contrary to Mississippi law, as well as established in

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Mississippi case law that a non-movant cannot defeat a motion for summary judgment by submitting an affidavit which directly contradicts without explanation its previous testimony. That's from the Mississippi Supreme Court case of Foldes versus Hancock Bank.

Now this exact topic is also discussed in Professor Jeffrey Jackson's treatise on Mississippi Civil Procedure which I cite in my rebuttal. As it notes, in determining whether an affidavit inconsistent with prior deposition testimony should be allowed, quote, the crux of the issue is whether the inconsistency is a sham. If so, the attempt at correcting the deposition testimony should be disregarded. issue arises when the affiant's deposition testimony contains a significant weakness that is revealed when the moving party's motion for summary judgment relies on the testimony. The non-moving party then attempts to correct the testimony in an affidavit. If the affidavit is found by

- 8

the trial court to be a sham, it should disregard the affidavit and consider only the earlier testimony.

Now, Your Honor, I would submit that this is exactly what is occurring here.

Upon plaintiff's discovery that American Optical did not make a single strap dust mask, as set forth in our summary judgment motion, plaintiff simply manufactured an affidavit the day before the hearing stating that American Optical products were used as specified in the fact sheets.

Now, Your Honor, the deposition testimony of Mr. McGilberry, which came after the fact sheets, demonstrated that that is just not so. And we would request that the Court strike this affidavit as it is improper and irrelevant, and instead rely on Mr. McGilberry's sworn deposition testimony which is the best evidence in this case. We would ask that our summary judgment be deemed proper.

THE COURT: Is that the only issue?

The strap issue, is that the only issue?

MR. NICHOLS: Yes, sir.

THE COURT: All right.

MR. GIVENS: May it please the Court, John Givens with Porter and Malouf law firm here on behalf of Mr. McGilberry.

What the defendant wants to do in this case is pick the testimony that's beneficial to him and ignore the testimony that's not. As he clearly states in his argument, we have sworn fact sheets, and that's sworn affidavit testimony, that he used American Optical products. And then at the deposition he was never specifically asked about American Optical. Counsel here sat there for two days straight and didn't ask one single question about American Optical products, even though numerous products were identified throughout these plaintiff's facts sheet, which are sworn to. And therefore, his justification for that is, well, he never identified what could have been one of my products. Just -- and is based solely on the fact that the plaintiff said the mask he used only had one strap.

1

2

3

5

6

7

9

10

11

12

13

14

15

16

17

18

We believe at this time the motion in 1 2 this case --3 THE COURT: What does your affidavit 4 say? 5 MR. GIVENS: Your Honor? 6 THE COURT: What does your affidavit 7 say. 8 MR. GIVENS: My affidavit says that 9 he used American Optical masks and 10 respirators while sandblasting or while 11 being exposed to respirable silica and as identified in his facts sheets that were 12 executed in 2004. 13 14 THE COURT: How do you identify it in 15 the -- previously? 16 MR. GIVENS: Your Honor, that's part 17 of the issue we have in this case and the 18 summary judgment being brought when it is. 19 At that time another attorney was 20 litigating on behalf of the plaintiff 21 primarily, and so we weren't responsible 22 for the deposition prep and the product 23 identification at that time. 24 THE COURT: Do you have a copy of the 25 deposition.

1 MR. GIVENS: Do I have a copy of the 2 deposition? 3 THE COURT: You said that it was 4 not -- he's talking about a strap. You're 5 talking about somebody identifying 6 something or not identifying because no 7 one asked him. 8 MR. GIVENS: Yes, sir, Your Honor. 9 THE COURT: I asked you what did he 10 say previously about how he identified it? 11 You don't have that in your deposition? You don't have that in your fact sheet? 12 13 MR. GIVENS: Your Honor, I don't know 1.4 how they executed those facts sheets. 15 THE COURT: Well, y'all come back 16 when you find out then. You come up here 17 not prepared to answer questions that I 18 ask you. 19 MR. GIVENS: Well, Your Honor --20 THE COURT: I mean, you're arguing --21 he's arguing that he should have a 22 dismissal because of one strap. You say 23 that the guy says that he used the 24 product, but you can't tell me how he in 25 fact identified the fact that he did use

the product, that product, because you 1 2 said that some other lawyer was handling 3 it. 4 MR. GIVENS: He identified it in his 5 sworn fact sheets that were provided to the defendants before the depositions. 6 7 THE COURT: How did he identify it? 8 Show me the fact sheet. 9 MR. GIVENS: The fact sheet was 1.0 attached to my motion, Your Honor, and it was attached to his -- may I approach? 11 12 THE COURT: Do you have it? 13 MR. GIVENS: Yes, sir, Your Honor. 14 That's the sworn fact sheet and that's 15 where he identifies American Optical 16 products. That's just in the amended fact 17 sheet. In the original fact sheet, which 18 I don't know if it's supplemented or not 19 or if it's overtaken, he identifies other 20 American Optical products in that fact 21 sheets. I don't understand how that fact 22 sheet was generated, Your Honor. 23 THE COURT: I don't either. There's 24 nothing on here to show where it came 25 from. That's just a statement by someone.

MR. GIVENS: And it's signed -- after 1 2 that he signs it under oath that is 3 true and correct. 4 THE COURT: All right. That's his 5 point also that -- all right. 6 Do you have any other issues today? 7 Is that all you have? 8 MR. GIVENS: Yeah, and I have this 9 affidavit. 10 THE COURT: Do you have anything 11 else? 12 MR. NICHOLS: Well, Your Honor, if I 13 could just clear up a little bit about 14 these amended fact sheets. 15 THE COURT: Go ahead. 16 MR. NICHOLS: These fact sheets were 17 submitted in discovery responses prior to 18 his deposition. We had the fact sheet 19 going into the deposition. When we take 20 his deposition Mr. McGilberry is unable to 21 identify any of the product that are 22 listed in there. It was proven 23 inaccurate. 24 THE COURT: How did you approach him 25 in trying to get him to identify?

1 MR. NICHOLS: Your Honor, there were 2 over 10 defense lawyers in the room, and 3 one person took the lead in the deposition 4 and asked him questions about all of the 5 respiratory protection that he used, and 6 he only identified a mask with a single 7 strap consistently in his testimony, which 8 is attached to my motion. 9 THE COURT: Did you show him a mask 10 of any kind? 11 MR. NICHOLS: No, sir, because we 12 don't manufacture a single strap mask. 13 THE COURT: Did you show him any kind 14 of mask? 15 MR. NICHOLS: No, sir, I didn't have 16 anything --17 THE COURT: So he just says it was 18 single strap. 19 MR. NICHOLS: He said it was a single 20 strap. And we asked him, do you know who 21 made it, who --THE COURT: Okay. So you didn't show 22 23 him one of yours and say, okay, can you 24 identify this? It's got three straps on 25 it, six straps, no straps?

1	MR. NICHOLS: No, sir.
2	THE COURT: Okay. Overruled. Motion
. 3	is overruled.
4	Do y'all have anything else.
5	MS. SURKIN: Your Honor, I have the
6	same type motion.
7	THE COURT: Same argument?
8	MS. SURKIN: It's a different
9	defendant, but it's the same facts.
10	THE COURT: Overruled.
11	MR. GIVENS: Thank you, Your Honor.
12	(HEARING CONCLUDED)
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

COUNTY OF JONES STATE OF MISSISSIPPI CERTIFICATE I, Elizabeth Barlow, Official Court Reporter for the Eighteenth Circuit Court District of the State of Mississippi, do hereby certify that I have reported the proceedings had and done in the foregoing styled cause to the best of my skill and ability and that the above pages contain a true, full and correct transcript of my stenographic notes taken in said proceedings. This the 14th day of September, 2009. ELIZABETH BARLOW, CSR #1008 Official Court Reporter 

# IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI SECOND JUDICIAL DISTRICT

JOHN MCGILBERRY

**PLAINTIFF** 

V.

**CAUSE NO. 2007-16-CV5** 

PANGBORN CORPORATION, ET AL.

**DEFENDANTS** 

## ORDER DENYING MOTION FOR SUMMARY JUDGMENT

COMES NOW the Court, upon Motion for Summary Judgment filed by the Defendant, Empire Abrasive Equipment Corporation's, and after reviewing same and hearing argument thereon, is of the opinion that said Motion is not well-taken and should be denied.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Motion for Summary Judgment filed by the above-named Defendant be, and the same is hereby denied.

SO ORDERED AND ADJUDGED this day of August, 2009.

FILED

AUG 4 8 2009

BART GAYIN JONES COUNTY, MS

# IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI SECOND JUDICIAL DISTRICT

JOHN MCGILBERRY

**PLAINTIFF** 

V.

**CAUSE NO. 2007-16-CV5** 

PANGBORN CORPORATION, ET AL.

DEFENDANTS

# ORDER DENYING MOTION FOR SUMMARY JUDGMENT

COMES NOW the Court, upon Motion for Summary Judgment filed by the Defendants, American Optical Corporation and Mississippi Valley Silica Company, and after reviewing same and hearing argument thereon, is of the opinion that said Motion is not well-taken and should be denied.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Motion for Summary Judgment filed by the above-named Defendants be, and the same is hereby denied.

SO ORDERED AND ADJUDGED this 2 day of August, 2009.

FILED

AUG 2 8 2009

CIRCUIT CLERK JONES COUNTY, MS Serial: 158721

#### IN THE SUPREME COURT OF MISSISSIPPI

FILED

NOV 0 4 2009

No. 2009-M-01521-SCT

OFFICE OF THE CLERK SUPREME COURT COURT OF APPEALS

Petitioner

EMPIRE ABRASIVE EQUIPMENT CORPORATION

ν.

JOHN MCGILBERRY

Respondent

#### ORDER

This matter came before a panel of this Court consisting of Waller, C.J., Chandler and Pierce, JJ., on the petition for interlocutory appeal filed by the Petitioner. After due consideration, the panel finds that the petition should be denied.

IT IS THEREFORE ORDERED that the petition for interlocutory appeal is hereby denied.

SO ORDERED, this the

day of November, 2009.

RANDY GRANT PIERCE, JUSTICE

Serial: 158650

## IN THE SUPREME COURT OF MISSISSIPPI

FILED

No. 2009-M-01522-SCT

NOV 0 4 2009

OFFICE OF THE CLERK SUPREME COURT COURT OF APPEALS

Petitioner

AMERICAN OPTICAL CORPORATION

ν.

JOHN MCGILBERRY

Respondent

#### ORDER

This matter came before a panel of this Court consisting of Waller, C.J., Chandler and Pierce, JJ., on the petition for interlocutory appeal filed by American Optical Corporation. After due consideration, this Court finds that this appeal should be dismissed. Mississippi Rule of Appellate Procedure (M.R.A.P.) 5 provides that an interlocutory appeal may be sought by filing a petition with the clerk within 21 days after the entry of the trial court's order. Further M.R.A.P. 25 provides that "Filing may be accomplished by mail addressed to the clerk, but filing shall not be timely unless the papers are received by the clerk within the time fixed for filing..." Therefore, the petition filed on September 21, 2009, was untimely filed and should be dismissed.

IT IS THEREFORE ORDERED that the petition for interlocutory appeal is hereby dismissed.

SO ORDERED, this the 4<sup>11</sup>/<sub>4</sub> day of November, 2009.

DAVID A. CHANDLER, JUSTICE

### IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN MCGILBERRY

**PLAINTIFF** 

VS.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, ET AL

**DEFENDANTS** 

## MOTION TO COMPEL SUPPLEMENTAL RESPONSES TO DISCOVERY

Ash Grove Cement Company, Clark Sand Company, Clemco Industries Corporation, Custom Aggregates & Grinding, Inc., Hanson Aggregates, Inc. f/k/a Hanson Aggregates Central, Inc. f/k/a Pioneer South Central, Inc. f/k/a Pioneer Concrete of Texas, Inc., Humble Sand Co., Inc. d/b/a Humble Sand & Gravel, Inc., Parmelee Industries, Inc., Precision Packaging, Inc. f/k/a Quikrete Materials, Inc. and Southern Silica of Louisiana, Inc. (hereinafter "defendants") move this Court pursuant to Mississippi Rule of Civil Procedure 37(a) to compel plaintiff to more fully and completely respond to discovery.

- Plaintiff and defendants entered into an agreed initial discovery order on December
   17, 2007, allowing plaintiff to respond to one set of discovery being propounded for all defendants.
   Ex. 1.
- 2. Plaintiff responded on August 13, 2008, nearly eight months after the order was signed and over four years after plaintiff had been deposed. Ex. 2.
- 3. Plaintiff's responses fail to comply with the letter or spirit of Rule 33, which requires each interrogatory to be answered "separately and fully" unless objected to, in which event the "reasons for the objection" shall be stated and an answer should be provided to the extent no objectionable. Miss. R. Civ. P. 33(b)(1). The Rule goes on to state that "[a]ll grounds for an objection to an interrogatory shall be stated with specificity [and] [a]ny ground not stated in a timely

EXHIBIT

objection is waived" unless excused by the court for good cause shown. Miss. R. Civ. P. 33(b)(4).

- 4. In an effort to resolve the discovery dispute defense counsel wrote plaintiff's counsel on March 26, 2010, requesting supplementation of certain discovery requests. Ex. 3. There was no response by the plaintiff.
- 5. As trial is set for August 3, 2010, and plaintiff has executed affidavits in contradiction to his testimony from four years ago, as well as his counsel's assertion that defendants did not know what would be testified to at trial. Ex.4, transcript p. 9. It is necessary that defendants receive full and complete responses to the requested discovery in sufficient time to prepare for trial.
  - 6. Defendants request that plaintiff supplement the following interrogatories:

Interrogatory No. 15: Please describe all claims you have had (including but not limited to this lawsuit) for damages for personal injuries or emotional injuries against any individual, partnership or corporation. For each such claim, please indicate the following:

- a. The style of the lawsuit, cause number and court in which the lawsuit was filed;
- b. A description of the injuries claimed in the lawsuit;
- c. The date the claim was filed;
- d. The name and address of the attorney who represented you in the matter;
- e. Any resolution, judgment or settlement of the claim including the date and amount of such judgment, resolution or settlement with respect to each individual defendant in that case.

**RESPONSE:** Objection. Without waiving said objection, plaintiff was involved in an asbestos lawsuit.

Plaintiff failed to state the objection being lodged and also failed to state any of the information requested. The information requested in this interrogatory is relevant to the claims and defenses in this matter, and as such is discoverable.

Interrogatory No. 17: Has Plaintiff ever filed a claim for worker's compensation? If so, state for each such claim:

- a. Name of insurance company;
- b. Name of Plaintiff's employer for each claim, the date of each claim, nature / injury of claim, and the file number for reach claim filed with the Industrial Accident Board;
- c. The amount of money paid for each claim;
- d. If a lawsuit was filed concerning any such claim, the style of the lawsuit, cause number, and court in which the lawsuit was filed;
- e. The claim number assigned by the IAB or new workers' compensation authority;
- f. If the claim involved the injuries at issue in this lawsuit, state whether the claim has been settled and, if so, the date and amount of the settlement;
- g. The name and address of each medical practitioner who tested, treated, or examined Plaintiff in connection with each such claim.

**RESPONSE:** To the best of my recollection at this time, yes, back in 1982. However, the plaintiff does not recall the details of this claim at this time.

Defense counsel has attempted to locate information related to a workers' compensation claim for the plaintiff without success. Defendants request plaintiff to supplement this response with any information related to where plaintiff was working, what the injury was for, or any other information which may help in locating the records.

Interrogatory No. 24: With respect to any screening or testing in which you may have participated for a silica or asbestos related disease, conditions, or other injuries, state:

- a. the dates(s) of each such testing or screening;
- b. the name and address of each clinic, laboratory or facility at which such testing or screening was performed;
- c. the medical tests or diagnostic method used during each testing or screening (e.g., pulmonary function tests, chest x-ray(s), etc.);
- d. the name of each person with whom you had direct contact as part of each testing or screening (e.g., clerical personnel, technicians, and/or physicians);
- e. how you learned of the availability of each testing or screening (e.g., newspaper, radio or television advertising; word of mouth; fliers or

pamphlets) and specifically identify the source; and

f. whether you paid for, or have been billed for such testing or screening services, and the amount of any such payment or billing.

**RESPONSE:** Objection. Screening is not a defined term; therefore this interrogatory is vague and ambiguous.

As referenced in the interrogatory, defendants used an alternative term of testing. Further, screening is a term of art and practice that has been memorialized in Judge Janis Graham Jack's opinion from the silica MDL 1553. Screening has also been used throughout the litigation in MDL 875. One or both of plaintiff's attorneys were, or are, participants in those MDLs. Defendants request plaintiff supplement his response for each time he has been screened.

Interrogatory No. 25: Please identify each and every examination or test you have been given by any physician(s), psychologist(s), or paramedical personnel selected or recommended by any of your attorneys, including but not limited to, any x-rays, PFTs, CT scans, arterial blood gas tests, Bronchoscopies, or Bronchoalveolar Lavages.

RESPONSE: Objection. This interrogatory seeks information that is privileged.

Although plaintiff has interposed an objection, plaintiff has not stated what privilege on which he is relying. Defendants request plaintiff either produce the requested information or specifically state the privilege and produce a corresponding privilege log. Only then can defendants go forward to explain why there may be an exception to any claimed privilege.

Interrogatory No. 29: Identify by brand name and generic description, each abrasive material, product or Respiratory Protection Device you contend you used which you claim contributed to the cause of any disease, illness or medical condition for which you seek compensation in this case, including but not limited to, (a) the name or identifying description of the product, (b) a physical description of the product; and the package, if any, containing the product; (c) the date or period of time during which each material, product or device was used, (d) whether a Respiratory Protection Device was worn (e) the type of job and work site upon which each different material, product, or Respiratory Protection Device was used, (f) the manufacturer(s) of each

of the materials, product, or Respiratory Protection Devices, (g) any instructions or warnings contained on any material, product or Respiratory Protection Device used, and (e) the names, addresses and telephone numbers of all other persons present at the time of your alleged exposure.

RESPONSE: Objection, there are a myriad of products manufactured, distributed and sold which contributed to the plaintiffs disease. As such, this interrogatory is over broad and unduly burdensome. Without waiving this objection, the plaintiff would state that sand is unreasonably dangerous for use in abrasive blasting. Sand may also be unavoidably dangerous. Exposure to free silica leads to silicosis both for person actually performing the work of sandblasting and for persons who are in the vicinity of sandblast operations. The degree of exposure to free silica in sandblasting is so ultra hazardous that even the best respiratory protective equipment may not sufficiently protect those in the work environment. Many respiratory protective devices or devices sold for use in the sandblasting industry were also unreasonably dangerous by virtue of their design. Non-air supplied hoods and dust masks were inadequate forms of protection for respirable silica. Neither the non-air supplied hoods nor the dust masks could provide protection against inhaling the particles generated by the sandblasting process. Application equipment was also unreasonably dangerous since it fractured the sand to respirable size. Application equipment failed to have adequate warnings for many years even into the present time. Even approved air supplied hoods fail to provide adequate protection in actual working conditions. The plaintiff maintains in this lawsuit that sand should not be used for abrasive blasting, that substitute abrasives should be used. The plaintiff also maintains that the application equipment helped to create the danger by reducing the sand particle to respirable size. The plaintiff claims that all products that he used were unreasonably dangerous either because of their inherent nature, their design, and/or their lack of an adequate or suitable warning. The products supplied by Defendants failed to warn the plaintiff of the nature and extent of the dangers associated with using high silica containing abrasives in abrasive blasting. Defendants also failed to inform the plaintiff of the best methods to avoid the dangers associated with abrasive blasting. Defendant failed to provide use limitations with their products and often misrepresented the protection provided by said products. Lastly, the response to this interrogatory may be better developed through deposition of Plaintiff's coworkers.

Plaintiff's response is non-responsive. Plaintiff's objection is that "there are a myriad of products....which contributed to the plaintiffs (sic) disease" and because of that the interrogatory is overly broad and unduly burdensome. The heart of this case, like most mass tort cases, is product usage/exposure. This interrogatory seeks to illicit from plaintiff the brand name and generic

description of the products he intends to claim at trial he used. Although plaintiff was deposed for two days and stated with specificity what products he actually used - - none of which are currently pending in this litigation - - plaintiff fails to cite a single product name or description in response to this interrogatory. Defendants are entitled to know before trial what plaintiff's claims will be and whose products he intends to testify he used. Defendants deposed plaintiff in 2004, but since that time plaintiff has executed a contradictory affidavit and his counsel has asserted in this court that defendants do not know what he will say at trial. Therefore, to avoid trial by ambush, defendants request plaintiff produce the information requested in this interrogatory.

Interrogatory No. 30: With respect to each Respiratory Protection Device that you/your decedent have/had ever worn, if you contend that you/your decedent sustained injuries or damages, in whole or in part, due to the use of said Respiratory Protection Device, describe in detail:

- a. The brand name, generic description and/or other identifying description of said Respiratory Protection Device, including but not limited to, color of product; number and color of straps/bands, if any; and what part of the face was covered; the type of material the mask/respirator/hood was made of, e.g. cloth/paper, vinyl, plastic, rubber, leather, etc; and, whether there was a name on the mask/respirator/hood
- b. The type of packaging in which the Respiratory Protection Device came;
- c. The name of the defendant which you contend designed, manufactured, sold or distributed each Respiratory Protection Device;
- d. Your/your decedent's employer and the specific job site or sites during each which said Respiratory Protection Device was used;
- e. The activity being performed while each Respiratory Protection Device was being worn;
- f. The inclusive dates of use of each Respiratory Protection Device;
- g. All instructions given to you/your decedent by your/your decedent's employer or any other person relating to the use of each Respiratory Protection Device;
- h. Whether any changes or modifications were made to any Respiratory Protection Device used or worn by you/your decedent, by your employer or any other person prior to or subsequent to such devices' use;
- i. If applicable, the type of filter used in any Respiratory Protection Device worn or used by you, and how often, if ever, the filter was changed; if there was a filter, was it a cartridge and if so, was there more than one cartridge and

- where was the cartridge(s) located on the mask
- j. The age and condition of the Respiratory Protection Device when used by you/your decedent;
- k. The approximate percentage of time you/your decedent wore each Respiratory Protection Device;
- 1. The identity of persons with knowledge of your/your decedent's use of any Respiratory Protection Device; and
- m. Specifically how you contend that any Respiratory Protection Device used or worn by you was defective.

**RESPONSE:** Plaintiff objects to this request as being over broad and unduly burdensome. Plaintiff was never warned about the hazards of using high silica abrasives in abrasive blasting. Plaintiff followed all safety rules and guidelines of his employers and used the equipment provided to him by his employers. In addition, the response to this interrogatory may be better developed through the deposition of Plaintiff and Plaintiffs co-workers.

Again, although this interrogatory is meant to illicit names and information related to the products plaintiff will claim he used for respiratory protection, there is not a name, description or other product-related information in this response. Obviously, the request is related to the claims and defenses in this matter. During plaintiff's prior deposition, it was expressly stated that he wore no respirator and no respirator claims were being made. Ex. 5, p.71. Yet, plaintiff's complaint lists respirator claims against two different defendants. Further, although plaintiff testified he wore one kind of mask through his entire working career, he executed a contradictory affidavit subsequent to his deposition testimony contradicting that assertion. Defendants, once again, seek information as to the products plaintiff will claim he used when he was exposed to silica to avoid any surprises at trial.

Interrogatory No. 31: For each of the Defendants' products to which you were exposed or to which you contend contributed to your exposure during your employment history, state the following:

a. The precautions you took during the times of exposure to the product;

- b. The precautions your employer/contractor suggested, recommended or required to be taken to minimize or eliminate your exposure to or inhalation of the product or the effects of such exposure;
- c. What did you do in response to each such suggestion, recommendation or requirement by your employer;
- d. The precautions or warnings which accompanied the product;
- e. Whether you were exposed to the product while using it or while others were using it, or both;
- f. The purpose for, and the manner in which, the product was being used during each of the times of your exposure;
- g. The duration of your exposure to the product;
- h. Whether your exposure was indoors or outdoors; and a description of the container or packaging in which each product was stored when not in use; and
- i. A description of the container or packaging in which each product was stored when not in use.

**RESPONSE:** Objection, this interrogatory is over broad and unduly burdensome in asking Plaintiff to recall each and every product he may have been exposed to over his entire work life. Subject to and without waiving these objections, the response to this interrogatory may be better developed through the deposition of Plaintiff and Plaintiffs co-workers.

The information requested is relevant to the claims and defenses as it seeks information related to the protection or precautions taken by the plaintiff during the time when he claims he was exposed to respirable silica. Obviously, what plaintiff was told to do, what he actually did and the type of exposure is relevant and discoverable. Plaintiff's suggestion that the response may be better developed through the plaintiff's deposition or his co-workers is not a proper response. Further, plaintiff has been deposed, and defense counsel has requested co-worker names and deposition dates for months without a response. The request is proper and should be supplemented.

Interrogatory No. 32: If any of your employers/contractors ever suggested, recommended or required that you should use any device to reduce your possible exposure to, or inhalation of, silica identify each such employer when the suggestion, recommendation or requirement was first made, the type, make and model of each device referred to in each suggestion, recommendation or requirement and what you

did in response to each such suggestion, recommendation or requirement.

**RESPONSE:** Objection. This interrogatory may be better developed through the deposition of the plaintiff and plaintiff's co-workers.

Plaintiff's response is not proper under the rules. Regardless of what plaintiff feels is the better mode of discovery, the question has been posed and under the rules a response is due. What plaintiff's employers recommended or required to reduce possible exposure (if any) to silica is related to the claims and defenses in this case. If plaintiff intends to rely on the information provided in his deposition defendants would request plaintiff to state the page and line of the testimony that he will adopt.

Interrogatory No. 34: Describe any abrasive blasting instruction and training you received, including but not limited to: (a) any certification(s) obtained by the plaintiff and any blasting process or processes for which such certification(s) was obtained and provide the date(s) when any such certification(s) was obtained; (b) the courses or areas covered by any classroom instruction; (c) field or apprenticeship instructions; (d) the nature of the instruction or training regarding the use of abrasive-blasting; (e) the nature of the instruction or training regarding the potential danger of inhalation of dust particles during the blasting process and (f) the identity of any instructor involved in providing any such training, instruction or certification.

**RESPONSE:** Objection, this interrogatory is overly broad and unduly burdensome. Subject to and without waiving these objections, the response to this interrogatory may be better developed through deposition of the plaintiff and plaintiff's coworkers.

This response is not proper under the rules. Defendants did depose the plaintiff, and they have repeatedly requested co-worker depositions. Regardless of whether plaintiff would rather be deposed again or have his co-workers deposed, the question has been properly submitted and thus deserves an answer. If plaintiff intends to rely on his prior testimony defendants request the page and line on which plaintiff will rely. Otherwise, supplementation is proper.

Interrogatory No. 39: Please state the total amount of all damages for which you will seek recovery for by reason of the occurrence made the basis of this lawsuit.

RESPONSE: Plaintiff objects to Interrogatory number 39 in so far as it requests an itemization in each and every category of injury or damage and a maximum amount of damages sought for each category. Said interrogatory is unduly burdensome and overly broad. The purpose of this interrogatory is to attempt to foreclose plaintiffs proof of any element of legally recognized damages by failure to itemize such in answer to this interrogatory. Therefore, it is anticipatory and is merely calculated to form a basis for a later exclusion of proof. As time goes on, the development of damages will change and this aspect of this interrogatory is unduly burdensome in regard to the fact that it will require constant supplementation. Further, the plaintiff would show that certain items of damages are intangible and are not capable of exact calculation. Such elements of damages such as pain, suffering, mental anguish and the lie (sic) are best evaluated and best determined by the jury who will ultimately decide this case. Without waiving said objection, Plaintiff is seeking \$ 1,000,000 or the maximum allowed by law for past, present and future mental and physical suffering. In addition, the Plaintiff is seeking medical expenses and other economic damages to be developed throughout the litigation of this case.

Trial of this matter is less than four months away, yet defendants have been given no information on what damages plaintiff intends to seek. Defendants would submit that it is time for such, and, as provided for in the rule, supplementation is both appropriate and proper should new damages arise. However, it is not proper to hold the information until the last minute - - or even at trial - - to surprise the defendants. The response should be supplemented.

Interrogatory No. 45: State, in the form of an itemized list, special damages alleged in this action including, but not limited to, hospital charges, medical card provider charger, prescription/medicine charges, lost wages, etc. and identify the person or entity to whom each item of expense was paid or is owed.

**RESPONSE:** Plaintiff objects to interrogatory number 45 in so far as it requests an itemization in each and very category of injury or damage and a maximum amount of damages sought for each category. Said interrogatory is unduly burdensome and overly broad. The purpose of this interrogatory is to attempt to foreclose plaintiffs proof of any element of legally recognized damages by failure to itemize such in answer to this interrogatory. Therefore, it is anticipatory and is merely calculated to

form a basis for a later exclusion of proof. As time goes on, the development of damages will change and this aspect of this interrogatory is unduly burdensome in regard to the fact that it will require constant supplementation. Further, the plaintiff would show that certain items of damages are intangible and are not capable of exact calculation. Such element of damages such as pain, suffering, mental anguish and the lie are best evaluated and best determined by the jury who will ultimately decide this case. The Plaintiff further objects as the Defendants mischaracterized and/or improperly defined the term special damages.

Defendants are certainly entitled to know what special damages plaintiff will seek at any trial of this matter. Absolutely no information has been produced by the plaintiff, and with trial less than four months away it is imperative that defendants begin preparing for trial. Supplementation is proper.

Interrogatory No. 47: Please describe the date, place and circumstances under which you first became aware of the illness or personal injury which you are claiming in this lawsuit or any symptom of such illness or injury, and how you became aware of such illness, personal injury or symptom, including but not limited to, the specific identity of each source of information providing to or leading to such awareness, any in change in your behavior, lifestyle or work habits.

**RESPONSE:** Objection. This interrogatory will be better developed through plaintiff's deposition.

Defendants respectfully seek a response to this request. If plaintiff intends to rely on his prior testimony, please state by page and line the testimony.

**Interrogatory No. 50:** Identify each person you may call as witness at trial and provide for each the full name, last known address and phone number.

**RESPONSE:** Objection. This interrogatory will be supplement at the appropriate time.

Defendants submit that this is the appropriate time. Defendants stand less than four months from trial, and although defense counsel has sent numerous requests for the names of plaintiff's witnesses all have gone without a response.

Interrogatory No. 53: Identify all persons, including fact witnesses, whom you believe have knowledge of facts relevant to the issues in this lawsuit.

**RESPONSE:** Objection. This interrogatory seeks privileged information. However, without waiving said objection, Larry McLawrence, James Barnes, Tyrone Hicks, Linda Chapman, James Hayes, Leanden Gavin, John McLaurin, Red Hardy, Sam Love, John Cole, Bobby Taylor, Tom Pittman, and Fred Pittman.

Plaintiff has interposed an objection related to privilege but does not state what privilege nor did he produce a privilege log for any information being withheld. Further, the definition in the discovery requests states that "identify" includes more information than just the fact witnesses' name. Specifically, "[t]he term 'identify', when referring to a person, as above defined, means to state such information as is reasonably necessary to lead to the location of said person, including the person's name, present address or, if same unknown, the last known address, the person's telephone number or, if same unknown, the last known telephone number, and the person's business address and telephone number." Defendants request supplementation with sufficient information to locate these individuals.

Interrogatory No. 54: State whether the you attended a screening, meeting, testing or evaluation for the purpose of determining or assessing whether you had been exposed to asbestos and/or silica and/or have an asbestos and/or silica related disease.

RESPONSE: Objection. Screening is not a defined term; therefore, this interrogatory is vague and ambiguous.

As listed in the interrogatory the alternative terms of meeting, testing or evaluation were used. Furthermore, the term screening is regularly used in this and other mass tort litigation and has a meaning known to all. The information requested is relevant and discoverable and should be supplemented.

Interrogatory No. 55: For each and every time you attended a screening, meeting, testing or evaluation (collectively "screening") for the purpose of determining or assessing whether you had an asbestos and/or silica related injury, please identify the following:

- 1. the date the screening took place;
- 2. the location of the screening;
- 3. whether the screening was for determining whether plaintiff has an asbestos related injury or a silica related injury or both;
- 4. the entities (including without limitation law firms, screening companies, clinics, physicians, physician's offices or hospitals) involved in the screening; and
- 5. how you knew about the screening.

**RESPONSE:** See response to Interrogatory No. 54.

Defendants would request plaintiff supplement for reasons stated above.

**Interrogatory No. 57:** For every health care provider who you believe has expressed an opinion regarding whether the injuries or damages you are claiming in this lawsuit were caused by or related to exposure to asbestos and/or silica, identify those health care providers and all reports and/or tests that he/she has relied upon to formulate those opinions.

RESPONSE: Objection. This interrogatory seeks information that is privileged.

Although plaintiff has claimed a privilege, none is stated. As Rule 33(b)(4) states any ground not stated in a timely objection is waived unless excused by the court for good cause. Defendants would request the objection be waived, as plaintiff's response continuously interpose objections without stating the grounds. If the court finds there is good cause for plaintiff to fail to state the grounds of his objection, defendants request the plaintiff be made to state what privilege he is relying on and produce a privilege log so that defendants may evaluate whether to proceed with requesting the information from the Court.

Interrogatory No. 58: If you assert privilege or immunity from discovery as grounds for refusal to answer any interrogatory or request for production of documents set

forth herein, please name the privilege or immunity asserted, provide a generic description of any documents as to which privilege or immunity is claimed, and explain in detail the grounds upon which said claim of privilege or immunity is based.

RESPONSE: This response will be supplemented.

Defendants request the supplementation at this time.

7. In response to the requests for production, plaintiff produced no documents other than authorizations signed by the plaintiff - - which were included in the discovery. So there were no independent documents produced by the plaintiff whatsoever. As plaintiff has been an asbestos plaintiff with the same counsel that now represents him in this case, there certainly are additional documents which are responsive to the requests for production within his possession, custody and control. If such documents are being withheld under privilege then a privilege log should be produced.

8. Defendants specifically request supplementation of the following requests for production:

Request for Production 37: A copy of plaintiff's marriage certificate.

RESPONSE: Not applicable.

Plaintiff stated in interrogatory responses that he is married. Defendants would have to propound additional interrogatories, expend additional monies and fill out certain state forms to independently receive the marriage certificate. Defendants would, therefore, request plaintiff produce a copy of his marriage license.

Request No. 44: Plaintiffs federal and state income tax returns for each of the past ten years.

**RESPONSE:** Plaintiff is providing an authorization to obtain said tax records. This authorization is being provided solely upon the condition that any records obtained with this authorization are to be provided to plaintiff's counsel within 10 days of receipt of said records at no expense to plaintiff's counsel.

The state of Mississippi has responded to defendants' request with information that plaintiff has not filed tax returns for the years 2005, 2006 or 2007. As Mississippi only provides information related to the prior 3 years, defendants would request supplementation. If plaintiff has not filed taxes within the last ten years, defendants request plaintiff state as much. Likewise, the federal government only produces records for the last three years, and their records show plaintiff filing only in 2007. Because the information requested is outside of the Defendants' power to receive and within the possession custody and control of the plaintiff, defendants request production of the documents.

Request 66: Any and all documents created, used or reviewed at any screening, meeting, testing or evaluation listed in Interrogatory 55 including but not limited to occupational and/or medical questionnaires, A-sheets, x-ray films, pulmonary function test reports, B-reader reports, x-ray review reports, x-ray prescriptions, PFT prescriptions, diagnostic/prognostic reports, exposure history reports, "sign in" or "sign out" sheets, PFT logs, PFT calibration records, attorney selection sheets, or waivers.

**RESPONSE:** Please see attached authorizations. These authorizations are being provided under the condition that any records obtained with these authorizations are to be provided to plaintiff's counsel within 10 days of receipt of said records at no expense to plaintiff's counsel.

Authorizations are of no use to defendants in requesting these records as plaintiff has failed to state any information related to the screening(s), meeting(s), testing(s) or evaluation(s) he has attended. The requested documents are within the possession custody and control of the plaintiff as his counsel would have these documents for both asbestos and silica. Defendants seek

supplementation of this request.

Request 67: All documents which you or anyone on your behalf received from any testing entity, clinic, physician, physician's office or hospital who has performed or reviewed x-rays, pulmonary function tests, B-reads, x-ray reviews, biopsies and/or physical examinations on you for the purpose of determining or assessing whether you have been exposed to asbestos and/or silica and/or have an asbestos and/or silica related disease.

RESPONSE: See response to Request For Production No. 66.

Defendants would incorporate their justification cited for Request 66 above.

Request 68: All documents which you have received from any lawyer or law firm regarding any occupational and/or medical questionnaires, x-rays, pulmonary function tests, B-reads, x-ray reviews, biopsies and/or physical examinations on you for the purpose of determining or assessing whether he was exposed to asbestos and/or silica and/or have an asbestos and/or silica related disease.

**RESPONSE:** Objection. This requests (sic) seeks privileged information. Without waiving said objection, see response to Request for Production No. 66.

Again, plaintiff wholly failed to state a ground for his objection. Defendants do not know what privilege he has asserted, if any, and certainly are not privy to any privilege log to make any argument to this Court. The documents are relevant and discoverable and should be produced. Defendants request supplementation of this request.

Request 69: All documents (including but not limited to occupational and medical questionnaires and/or histories) provided to you, filled out or answered for any testing entity, clinic, physician, physician's office or hospital who performed or reviewed x-rays, pulmonary function tests, B-reads, x-ray reviews, biopsies and/or physical examinations on you to determine or assess whether you had been exposed to asbestos and/or silica or have an asbestos and/or silica related disease.

**RESPONSE:** Please see attached authorizations. These authorizations are being provided under the condition that any records obtained with these authorizations are to be provided to plaintiff's counsel within 10 days of receipt of said records at no expense to plaintiff's counsel

Authorizations provided are not of assistance to defendants in this scenario and are not a substitute for production of documents which are within the possession, custody and control of the plaintiff. Plaintiff's counsel represents McGilberry in both silica and asbestos and the documents should be readily available for production.

Request 71: Any and all documents regarding and/or identifying all persons who attended any screening, meeting, testing or evaluation listed in Interrogatory 55, including but not limited to occupational and/or medical questionnaires, A-sheets, x-ray films, pulmonary function test reports, B-reader reports, x-ray review reports, x-ray prescriptions, PFT prescriptions, diagnostic/prognostic reports, exposure history reports, "sign in" or "sign out" sheets, PFT logs, PFT calibration records, attorney selection sheets, or waivers.

**RESPONSE:** Objection. This request seeks privileged information. Without waiving said objection, Plaintiff does not have any documents related to this request at this time.

Defendants request either waiver of the objection or plaintiff to state the grounds of the objection/privilege. If plaintiff has the documents requested within his possession, custody or control, they should be produced.

9. Trial of this case is less than four months away. Defendants request this court order plaintiff to supplement with the requested information expeditiously. Defendants request the production of both information and documents within five (5) days of this court's order.

WHEREFORE, defendants request plaintiff to fully and completely respond to the discovery requests outlined herein within five (5) days of this court's order and any other relief which they may be so entitled.

This the 13 day of April, 2010.

Respectfully submitted,

Edwin S. Gault, Jr. MSB No. 10187

Jennifer J. Skipp ff, MSB No. 100808

Attorneys for Certain Defendant

OF COUNSEL:

FORMAN PERRY WATKINS KRUTZ & TARDY, LLP

200 South Lamar St. 100

Jackson, Mississippi 39201

Post Office Box 22608

Jackson, Mississippi 39225-2608

Phone: (601) 960-8600

Facsimile: (601) 960-8613

#### **CERTIFICATE OF SERVICE**

I, the undersigned attorney, on behalf of defendants, do hereby certify that I have served by United States mail, postage prepaid, and via email and/or facsimile, a true and correct copy of the above and foregoing document, to plaintiff's counsel of record and have provided written notice via email and/or facsimile of such service to all other known counsel of record.

THIS, the  $13^{-1}$  day of April, 2010.

# IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF JONES COUNTY, MISSISSIPPI

JOHN MCGILBERRY

**PLAINTIFF** 

VS.

CIVIL ACTION NO. 2007-16-CVS

PANGBORN CORPORATION, ET AL.

**DEFENDANTS** 

## DEFENDANT AMERICAN OPTICAL CORPORATION'S JOINDER IN AND ADOPTION OF CERTAIN DEFENDANTS' MOTION TO COMPEL SUPPLEMENTAL RESPONSES TO DISCOVERY

COMES NOW, Defendant American Optical Corporation and hereby joins in and adopts Certain Defendants' Motion to Compel Supplemental Responses to Discovery filed on or about April 13, 2010, and attached hereto as Exhibit "A."

Respectfully submitted,

AMERICAN OPTICAL CORPORATION, Defendant

BY:

Robert B. Ireland, III

OF COUNSEL:

Walter T. Johnson (MSB #8712)

Michael O. Gwin (MSB #5086)

Joseph G. Baladi (MSB #100286)

Robert B. Ireland, III (MSB #100708)

WATKINS & EAGER PLLC

Post Office Box 650

Jackson, MS 39205

Phone: 601-965-1900

Fax: 601-965-1901

FILED

MAY 1 1 2010

BART GAVIN CIRCUIT CLERK JONES COUNTY, MS

## **CERTIFICATE OF SERVICE**

I, the undersigned attorney of record, hereby certify that I have this day caused to be forwarded via U.S. mail a true and correct copy of the foregoing document to the following counsel of record:

R. Allen Smith, Jr.
THE SMITH LAW FIRM, P.L.L.C
681 Towne Center Blvd., Suite B
Ridgeland, MS 39157

Timothy W. Porter Johnny T. Givens PORTER & MALOUF, P.A. Post Office Box 12768 Jackson, MS 39236

All known defense counsel have been served via electronic mail,

This loth day of May, 2010.

Robert B. Ireland, III

## IN THE CIRCUIT COURT FOR THE FIRST JUDICIAL DISTRICT OF JONES COUNTY, MISSISSIPPI

JOHN MCGILBERRY

**PLAINTIFF** 

VS.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, ET AL.

**DEFENDANTS** 

### PLAINTIFF'S SUPPLEMENTAL RESPONSES TO DEFENDANTS' MASTER SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF

COMES NOW, Plaintiff, by and through his attorneys of record, and files this his supplemental responses to Defendant's Master Set of Interrogatories and Request for Production of Documents, pursuant to Miss.R.Civ.P. 26 and 33 as follows, to-wit:

## PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

Plaintiff's Responses to each of these Interrogatories incorporates this Preliminary Statement and these General Objections.

- 1. The Plaintiff objects to these Interrogatories to the extent that they seek information subject to the attorney-client privilege or which constitutes protected work product.
- 2. The Plaintiff objects to any discovery request that purports to impose upon it any obligation not expressly set forth in the *Mississippi Rules of Civil Procedure*.
- 3. The Plaintiff objects to any discovery request to the extent that the time periods referenced therein are not limited in scope.
- 4. The Plaintiff objects to any discovery request to the extent it seeks to require Plaintiff to provide information which is equally available to the Defendant.
- 5. The Plaintiff objects to any discovery request to the extent that it seeks disclosures of information generated by persons other than Plaintiff or Plaintiff's counsel that has come into the possession of Plaintiff or Plaintiffs' counsel during the course of discovery and trial preparation in asbestos-related litigation.
- 6. The Plaintiff objects to any discovery request to the extent that it improperly calls for a legal, medical, or scientific opinion or conclusion which Plaintiff is not qualified to render.
- 7. The Plaintiff does not concede that any response to any discovery request is or will be admissible evidence at a trial of this action.
- 8. The Plaintiff objects to these Interrogatories to the extent that they are overly broad, vague and duplicative.

EXHIBIT "O"

#### **INTERROGATORIES**

- 15. Please describe all claims you have had (including but not limited to this lawsuit) for Damages for personal injuries or emotional injuries against any individual, partnership or corporation. For each such claim, please indicate the following:
  - a. The style of the lawsuit, cause number and court in which the lawsuit was filed;
  - b. A description of the injuries claimed in the lawsuit;
  - c. The date the claim was filed;
  - d. The name and address of the attorney who represented you in the matter;
  - e. Any resolution, judgment or settlement of the claim including the date and amount of such judgment, resolution or settlement with respect to each individual defendant in that case.

**RESPONSE:** Objection. Without waiving said objection, Plaintiff was involved in an asbestos lawsuit.

SUPPLEMENTAL RESPONSE: Subject to and without waiving any previous objections, and in a good faith effort to respond to said interrogatory, Plaintiff was mistaken in his previous response to this Interrogatory. Plaintiff has only had and continues to have one (1) lawsuit pending and it is this one regarding his silicosis case.

- a. John McGilberry v. Pangborn Corporation, et al.; In the Circuit Court for the First Judicial District of Jones County, Mississippi; C.A. No. 2007-16-CV5
- b. The Plaintiff's alleged injury is lung disease, silicosis, caused by exposure to respirable crystalline silica while working at Pittman Construction in Ellisville, Mississippi from 1972 to 1974; while working at Howard Industries in Laurel, Mississippi from 1974 to 1981; while working at Daniel Construction Company in Apex, North Carolina from 1982 to 1984; and while working at H.G. Myrick Construction in Laurel, Mississippi from 1985 to 1989.
- C. The Plaintiff's Complaint was originally filed in a multi-plaintiff case styled George Buffington, et al. v. Pulmosan Safety Equipment, et al., civil action number 2002-194-CV6, in the Circuit Court of Jones County, Mississippi, Second Judicial District. On or about May 15, 2006, an Order was entered by the Circuit Court of Jones, Mississippi, Second Judicial District, pursuant to Canadian National v. Smith, et al., 926 So.2d 839 (Miss. 2006) whereby the Plaintiff's Complaint was dismissed with a one (1) year tolling agreement to re-file the Plaintiff's cause of action in a proper venue according to new law in Mississippi. This case was filed on May 14, 2010, within the one (1) year time frame allowed by Canadian National v. Smith, et al.
- d. Timothy W. Porter, Patrick C. Malouf, John T. Givens, PORTER & MALOUF, P.A., Post Office Box 12768, Jackson, Mississippi 39236 and R.

Allen Smith, Jr., R. Allen Smith, Jr., THE SMITH LAW FIRM, P.L.L.C., 681 Towne Center Boulevard, Suite B, Ridgeland, Mississippi 39157

e. The current silica case has not been resolved.

In addition, the Plaintiff previously had an asbestos lawsuit(s). He is not aware of the style, cause number, or court in which the lawsuit was filed. The Plaintiff claimed in the lawsuit that he had asbestosis. The Plaintiff does not recall when the claim was filed. As previously testified to, the Plaintiff was represented by Jon Swartzfager out of Laurel, Mississippi. The Plaintiff is not aware of the resolution of that case at this time. The Plaintiff would state that this information could best be obtained from his asbestos counsel. The Plaintiff has answered this interrogatory to the best of his knowledge.

- 17. Has Plaintiff ever filed a claim for workers compensation? If so, state for each such claim:
  - a. Name of insurance company;
  - Name of Plaintiffs employer for each claim, the date of each claim, nature/ injury of claim, and the file number for reach claim filed with the Industrial Accident Board;
  - c. The amount of money paid for each claim;
  - d. If a lawsuit was filed concerning any such claim, the style of the lawsuit, cause number, and court in which the lawsuit was filed;
  - e. The claim number assigned by the IAB or new workers compensation authority;
  - f. If the claim involved the injuries at issue in this lawsuit, state whether the claim has been settled and, if so, the date and amount of the settlement;
  - g. The name and address of each medical practitioner who tested, treated, or examined Plaintiff in connection with each such claim.

**RESPONSE:** To the best of my recollection at this time, yes, back in 1982. However, the Plaintiff does not recall the details of this claim at this time.

SUPPLEMENTAL RESPONSE: Plaintiff was mistaken in his previous response to this Interrogatory. Plaintiff has never filed a claim for workers compensation. He has only filed for Social Security Disability for shortness of breath back in the early 2000's. He was seeing Dr. Lewis Neese located in Hattiesburg, Mississippi, at the time. Plaintiff hired attorney, Edna Collins, located in Laurel, Mississippi, at the time to represent him in that matter. Plaintiff is not aware of any of the specifics of this matter except that he was approved for Social Security Disability benefits.

- 24. With respect to any screening or testing in which you may have participated for a silica or asbestos related disease, conditions, or other injuries, state:
  - a. the dates(s) of each such testing or screening;

- b. the name and address of each clinic, laboratory or facility at which such testing or screening was performed;
- c. the medical tests or diagnostic method used during each testing or screening (e.g., pulmonary function tests, chest x-ray(s), etc.);
- d. the name of each person with whom you had direct contact as part of each testing or screening (e.g., clerical personnel, technicians, and/or physicians);
- e. how you learned of the availability of each testing or screening (e.g., newspaper, radio or television advertising; word of mouth; fliers or pamphlets) and specifically identify the source; and
- f. whether you paid for, or have been billed for such testing or screening services, and the amount of any such payment or billing.

**RESPONSE:** Objection. Screening is not a defined term; therefore this interrogatory is vague and ambiguous.

SUPPLEMENTAL RESPONSE: Objection. Screening is not a defined term; therefore this interrogatory is vague and ambiguous. Without waiving said objection, John McGilberry has participated in medical evaluations conducted by physicians. At this time, the Plaintiff does not recall the specific dates, but believes that would be found on any B-read report or medical evaluation report produced. The Plaintiff does not recall the addresses of any medical evaluation site. The Plaintiff believes an X-ray was taken. There may have been other tests performed such as a PFT but the Plaintiff does not specifically recall at this time. The Plaintiff does not recall the names of the persons involved with the medical evaluation. At this time the Plaintiff does not recall how he learned of the availability of the medical evaluation but it could have been from a co-worker, friend, and/or advertisement. The Plaintiff does not believe he paid for the medical evaluation. This answer will be supplemented and/or further developed through the deposition of the Plaintiff. However, without waiving said objections:

- a. March 11, 2002
- b. A traveling trailer in Laurel, Mississippi
- c. Chest x-rays
- d. John Foxworth
- e. Does not remember how he initially heard about screening.
- f. I did not have to pay any monetary amount out my own pocket for the chest x-rays that were taken on that date.

Further, the Plaintiff participated in a testing for asbestos. He does not recall the date of that testing. It was done in Laurel, Mississippi. The Plaintiff believes an x-ray was done at this testing but does not recall if any other tests were done at this time. Again, the Plaintiff does not recall how he heard about the testing. The Plaintiff does not believe he paid for the testing. This information could best be obtained from Jon Swartzfager who represented the Plaintiff in the asbestos lawsuit.

25. Please identify each and every examination or test you have been given by any physician(s), psychologist(s), or paramedical personnel selected or recommended by any of your

attorneys, including but not limited to, any x-rays, PFTs, CT scans, arterial blood gas tests, Bronchoscopies, or Bronchoalveolar Lavages.

**RESPONSE:** Objection. This interrogatory seeks information that is privileged.

SUPPLEMENTAL RESPONSE: Subject to and without waiving any previous objections, and in a good faith effort to respond to said interrogatory, please see Plaintiff's medical records from The Hattiesburg Clinic, Jefferson Medical Associates, Forrest General Hospital and South Central Regional Medical Center which you obtained through use of Plaintiff's medical authorization on February 5, 2010 and February 17, 2010. Also, Plaintiff does recall having the following examinations and/or tests performed: chest x-rays, PFTs and CT scans but is unsure as to the others mentioned in this interrogatory. The dates and results of these tests can best be obtained from the medical records that Defendants have previously requested and received.

29. Identify by brand name and generic description, each abrasive material, product or Respiratory Protection Device you contend you used which you claim contributed to the cause of any disease, illness or medical condition for which you seek compensation in this case, including but not limited to, (a) the name or identifying description of the product, (b) a physical description of the product; and the package, if any, containing the product; (c) the date or period of time during which each material, product or device was used, (d) whether a Respiratory Protection Device was worn (e) the type of job and work site upon which each different material, product, or Respiratory Protection Device was used, (f) the manufacturer(s) of each of the materials, product, or Respiratory Protection Devices, (g) any instructions or warnings contained on any material, product or Respiratory Protection Device used, and (e) the names, addresses and telephone numbers of all other persons present at the time of your alleged exposure.

RESPONSE: Objection, there are a myriad of products manufactured, distributed and sold which contributed to the plaintiff's disease. As such, this interrogatory is over broad and unduly burdensome. Without waiving this objection, the plaintiff would state that sand is unreasonably dangerous for use in abrasive blasting. Sand may also be unavoidably dangerous. Exposure to free silica leads to silicosis both for person actually performing the work of sandblasting and for persons who are in the vicinity of sandblast operations. The degree of exposure to free silica in sandblasting is so ultra hazardous that even the best respiratory protective equipment may not sufficiently protect those in the work environment. Many respiratory protective devices or devices sold for use in the sandblasting industry were also unreasonably dangerous by virtue of their design. Non-air supplied hoods and dust masks were inadequate forms of protection for respirable silica. Neither the non-air supplied hoods nor the dust masks could provide protection against inhaling the particles generated by the sandblasting process. Application equipment was also unreasonably dangerous since it fractured the sand to respirable size. Application equipment failed to have adequate warnings for many years even into the present time. Even approved air supplied hoods fail to provide adequate protection in actual working conditions. The plaintiff maintains in this lawsuit that sand should not be used for abrasive blasting, that substitute abrasives should be used. The plaintiff also maintains that the application equipment helped to create the danger by reducing the sand particle to respirable size. The plaintiff claims that all products that he used were unreasonably dangerous either because of their inherent nature, their design, and/or their lack of an adequate or suitable warning. The products supplied by Defendants failed to warn the plaintiff of the nature and extent of the dangers associated with using high silica containing abrasives in abrasive blasting. Defendants also failed to inform the plaintiff of the best methods to avoid the dangers associated with abrasive blasting. Defendant failed to provide use limitations with their products and often misrepresented the protection provided by said products. Lastly, the response to this interrogatory may be better developed through deposition of Plaintiff's co-workers.

**SUPPLEMENTAL RESPONSE:** Subject to and without waiving any previous objections, upon information and belief and in a good faith effort to respond to said interrogatory, the Plaintiff's exposure to silica occurred at the same worksites and years as testified in his previous deposition. At this time, the Plaintiff is not claiming any additional worksites at which he was exposed. Further, the Plaintiff is specifically claiming exposure to the following:

- (a) Clark Sand during the times he sandblasted and was around sandblasting as previously testified to. Empire pots on the occasions he sandblasted and was around sandblasting as previously testified to. American Optical 1010 and 1050 disposable dust masks which he wore while sandblasting, around sandblasting and doing concrete work as previously testified to. In addition, the Plaintiff wore 3M disposable masks during the same time periods. I also used a non-airfed hood on one occasion as previously testified to.
- (b) The Clark Sand came in a brown bag with red writing. It came in 100 pound bags. The AO 1010 dust mask was white with a metal piece over the nose part. It had two straps that were yellow. Further it had red writing on the bottom of the mask. The AO 1050 was a white mask that looked kind of like a duck bill. It could fold flat. It was white. The 3M masks were white and had ridges and usually only had one strap with the metal piece on the nose part. All the masks I wore were made out of what I believe to be some type of paper. The Empire pots used were the same as described in my deposition. To the best of my recollection the pots were green when I used them.
- (c) The dates and periods of when the products were used remains the same as testified to in my previous deposition. The AO 1050 was used during the 1970's while the AO 1010 was used in the 1980's. The 3M masks were used in the 1970's and 1980's.
- (d) Besides the non-air fed hood I wore, the respiratory protection devices I wore have been identified in this Interrogatory response.
- (e) The type of job and worksites remain the same as my previous deposition.
- (f) Previously stated.
- (g) The Clark sand bag had a warning on the bag which I read prior to loading the bags in the Empire pots. The dust masks I used did not have warnings on the mask, but the packages that I saw on occasion did have some type of warning on there, but it did not warn about the danger of using the

masks around sandblasting. The Empire pots had various writing on them one of which I believe to be a warning. But it did not tell me sandblasting could cause permanent injury or death.

- (h) The Plaintiff has previously identified all individuals that he could recall in his deposition. This has not changed since the deposition.
- 30. With respect to each Respiratory Protection Device that you/your decedent have/had ever worn, if you contend that you/your decedent sustained injuries or damages, in whole or in part, due to the use of said Respiratory Protection Device, describe in detail:
  - a. The brand name, generic description and/or other identifying description of said Respiratory Protection Device, including but not limited to, color of product; number and color of straps/bands, if any; and what part of the face was covered; the type of material the mask/respirator/hood was made of, e.g. cloth/paper, vinyl, plastic, rubber, leather, etc; and, whether there was a name on the mask/respirator/hood
  - b. The type of packaging in which the Respiratory Protection Device came;
  - c. The name of the defendant which you contend designed, manufactured, sold or distributed each Respiratory Protection Device;
  - d. Your/your decedent's employer and the specific job site or sites during each which said Respiratory Protection Device was used;
  - e. The activity being performed while each Respiratory Protection Device was being worn;
  - f. The inclusive dates of use of each Respiratory Protection Device;
  - g. All instructions given to you/your decedent by your/your decedent's employer or any other person relating to the use of each Respiratory Protection Device;
  - h. Whether any changes or modifications were made to any Respiratory Protection Device used or worn by you/your decedent, by your employer or any other person prior to or subsequent to such devices' use;
  - i. If applicable, the type of filter used in any Respiratory Protection Device worn or used by you, and how often, if ever, the filter was changed; if there was a filter, was it a cartridge and if so, was there more than one cartridge and where was the cartridge(s) located on the mask
  - j. The age and condition of the Respiratory Protection Device when used by you/your decedent;
  - k. The approximate percentage of time you/your decedent wore each Respiratory Protection Device;
  - I. The identity of persons with knowledge of your/your decedent's use of any Respiratory Protection Device; and
  - m. Specifically how you contend that any Respiratory Protection Device used or worn by you was defective.

**RESPONSE:** Plaintiff objects to this request as being over broad and unduly burdensome. Plaintiff was never warned about the hazards of using high silica abrasives in abrasive blasting.

Plaintiff followed all safety rules and guidelines of his employers and used the equipment provided to him by his employers. In addition, the response to this interrogatory may be better developed through the deposition of Plaintiff and Plaintiff's co-workers.

**SUPPLEMENTAL RESPONSE:** Plaintiff objects to this request as being over broad and unduly burdensome. Plaintiff was never warned about the hazards of using high silica abrasives in abrasive blasting. Plaintiff followed all safety rules and guidelines of his employers and used the equipment provided to him by his employers. Without waiving said objection the Plaintiff responds as follows:

- a. See Response to Interrogatory No. 29.
- b. See Response to Interrogatory No. 29. Usually the masks were not in their packaging.
- c. See Response to Interrogatory No. 29.
- d. See Response to Interrogatory No. 29. Further, this remains the same as previously testified to.
- e. See Response to Interrogatory No. 29. Further, this remains the same as previously testified to.
- f. See Response to Interrogatory No. 29. Further, this remains the same as previously testified to. The Plaintiff's deposition has been scheduled for May 26, 2010 and this will be further developed through his testimony.
- g. Plaintiff was never warned about the hazards, including but not limited to permanent lung injury and death, of using high silica abrasives in abrasive blasting. Plaintiff followed all safety rules and guidelines of his employers and used the equipment provided to him by his employers.
- h. No changes were made except bending the metal bar on the dust masks to make them shape to my face.
- i. N/A
- j. The dust masks I used were always new. When they would get too dirty, I would get another new one. I am not aware of the age of the non-airfed hood I used.
- k. If I was performing sandblasting, around sandblasting, or doing concrete work, I wore a dust mask at all times while performing those duties. I can not give an exact percentage.
- 1. I have already identified all co-workers I could in my previous deposition.
- m. The respiratory devices were defective because they did not protect from exposure to respirable silica. Further, they were defective because they failed to warn that they were not to be used around sandblasting or concrete work.
- 31. For each of the Defendants products to which you were exposed or to which you contend contributed to your exposure during your employment history, state the following:
  - a. The precautions you took during the times of exposure to the product;
  - b. The precautions your employer/contractor suggested, recommended or required to be taken to minimize or eliminate your exposure to or inhalation of the product or the effects of such exposure;

- c. What did you do in response to each such suggestion, recommendation or requirement by your employer;
- d. The precautions or warnings which accompanied the product;
- e. Whether you were exposed to the product while using it or while others were using it, or both;
- f. The purpose for, and the manner in which, the product was being used during each of the times of your exposure;
- g. The duration of your exposure to the product;
- Whether your exposure was indoors or outdoors; and a description of the container or packaging in which each product was stored when not in use;
   and
- i. A description of the container or packaging in which each product was stored when not in use.

**RESPONSE:** Objection, this interrogatory is over broad and unduly burdensome in asking Plaintiff to recall each and every product he may have been exposed to over his entire work life. Subject to and without waiving these objections, the response to this interrogatory may be better developed through the deposition of Plaintiff and Plaintiff's co-workers.

**SUPPLEMENTAL RESPONSE:** Objection, this interrogatory is over broad and unduly burdensome in asking Plaintiff to recall each and every product he may have been exposed to over his entire work life. Subject to and without waiving these objections, the response to this interrogatory may be better developed through the deposition of Plaintiff on May 26, 2010.

- a. The Plaintiff is not sure what is meant by precautions taken. Various employers of plaintiff required that he always wear a dust mask which he did. If the Plaintiff was around sandblasting, sandblasting, or doing concrete work, he wore a dust mask.
- b. The Plaintiff employers just required him to wear a dust mask. He does not recall them ever warning him about the harmful effects of breathing silica.
- c. I always followed the instructions of my employer whatever they may be.
- d. See response to Interrogatories No. 29 and No. 30.
- e. While I was using it, and in regards to Clark Sand, while others were sandblasting and on the occasion(s) I personally sandblasted.
- f. Clark Sand was being used for sandblasting, while the dust masks were used to protect me from breathing dust including silica dust while sandblasting, being around sandblasting, and doing concrete work.
- g. See Response to Interrogatories No. 29 and No. 30, further this remains the same as previously testified to.
- h. My exposure was primarily outdoors. I was exposed indoors while being around sandblasting of the floors and any concrete work I did indoors. Further, this remains the same as previously testified to.
- i. The dust masks were disposable and thrown away after use.
- 32. If any of your employers/contractors ever suggested, recommended or required that

you should use any device to reduce your possible exposure to, or inhalation of, silica identify each such employer when the suggestion, recommendation or requirement was first made, the type, make and model of each device referred to in each suggestion, recommendation or requirement and what you did in response to each such suggestion, recommendation or requirement.

**RESPONSE:** Objection. This interrogatory may be better developed through the deposition of the Plaintiff and Plaintiff's co-workers.

**SUPPLEMENTAL RESPONSE:** See responses to Interrogatories No. 29, No. 30, and No. 31.

34. Describe any abrasive blasting instruction and training you received, including but not limited to: (a) any certification(s) obtained by the plaintiff and any blasting process or processes for which such certification(s) was obtained and provide the date(s) when any such certification(s) was obtained; (b) the courses or areas covered by any classroom instruction; (c) field or apprenticeship instructions; (d) the nature of the instruction or training regarding the use of abrasive-blasting; (e) the nature of the instruction or training regarding the potential danger of inhalation of dust particles during the blasting process and (f) the identity of any instructor involved in providing any such training, instruction or certification.

**RESPONSE:** Objection, this interrogatory is over broad and unduly burdensome. Subject to and without waiving these objections, the response to this interrogatory may be better developed through deposition of Plaintiff and Plaintiff's co-workers.

**SUPPLEMENTAL RESPONSE:** Objection, this interrogatory is over broad and unduly burdensome. Subject to and without waiving these objections, the Plaintiff does not recall ever receiving blasting instruction except for doing as told by his employers.

39. Please state the total amount of all damages for which you will seek recovery for by reason of the occurrence made the basis of this lawsuit.

RESPONSE: Plaintiff objects to Interrogatory number 39 in so far as it requests an itemization in each and every category of injury or damage and a maximum amount of damages sought for each category. Said interrogatory is unduly burdensome and overly broad. The purpose of this interrogatory is to attempt to foreclose plaintiff's proof of any element of legally recognized damages by failure to itemize such in answer to this interrogatory. Therefore, it is anticipatory and is merely calculated to form a basis for a later exclusion of proof. As time goes on, the development of damages will change and this aspect of this interrogatory is unduly burdensome in regard to the fact that it will require constant supplementation. Further, the plaintiff would show that certain items of damages are intangible and are not capable of exact calculation. Such elements of damages such as pain, suffering, mental anguish and the lie are best evaluated and best determined by the jury who will ultimately decide this case. Without waiving said objection, Plaintiff is seeking \$1,000,000 or the maximum allowed by law for past, present and future mental and physical suffering. In addition,

the Plaintiff is seeking medical expenses and other economic damages to be developed throughout the litigation of this case.

SUPPLEMENTAL RESPONSE: Subject to and without waiving any previous objections, and in a good faith effort answer this interrogatory, Plaintiff is seeking past and future lost wages. Plaintiff's expert is the process of doing this calculation and this will be provided upon receipt of the same. The Plaintiff has requested certified copies of all relevant medical bills and will produce same upon receipt. Further, plaintiff's expert Dr. Stogner is in the process of performing a future medicals calculation. That will be produced upon receipt of same. The Plaintiff is claiming \$3,000,000 for past and future mental and physical suffering. The Plaintiff is also seeking punitive damages to be determined by a jury. This response will be supplemented shortly.

45. State, in the form of an itemized list, special damages alleged in this action including, but not limited to, hospital charges, medical card provider charger, prescription/medicine charges, lost wages, etc. and identify the person or entity to whom each item of expense was paid or is owed.

RESPONSE: Plaintiff objects to interrogatory number 45 in so far as it requests an itemization in each and very category of injury or damage and a maximum amount of damages sought for each category. Said interrogatory is unduly burdensome and overly broad. The purpose of this interrogatory is to attempt to foreclose plaintiff's proof of any element of legally recognized damages by failure to itemize such in answer to this interrogatory. Therefore, it is anticipatory and is merely calculated to form a basis for a later exclusion of proof. As time goes on, the development of damages will change and this aspect of this interrogatory is unduly burdensome in regard to the fact that it will require constant supplementation. Further, the plaintiff would show that certain items of damages are intangible and are not capable of exact calculation. Such element of damages such as pain, suffering, mental anguish and the lie are best evaluated and best determined by the jury who will ultimately decide this case. The Plaintiff further objects as the Defendants mischaracterized and/or improperly defined the term special damages.

**SUPPLEMENTAL RESPONSE:** See Response to Interrogatory No. 39. This response will be supplemented with an exact damage calculation once the calculations can be received from Plaintiff's experts.

47. Please describe the date, place and circumstances under which you first became aware of the illness or personal injury which you are claiming in this lawsuit or any symptom of such illness or injury, and how you became aware of such illness, personal injury or symptom, including but not limited to, the specific identity of each source of information providing to or leading to such awareness, any in change in your behavior, lifestyle or work habits.

**RESPONSE:** Objection. This interrogatory will be better developed through Plaintiff's deposition.

SUPPLEMENTAL RESPONSE: Objection. This interrogatory may be better developed through Plaintiff's deposition. Without waiving said objection, Plaintiff became aware that he was

injured at some point following acquiring the B-read Report of Ray Harron, M.D. on June 26, 2002. This B-read has already been previously produced. Due to Plaintiff's shortness of breath, he has become limited in the activities he can perform or the length of time he can participate in activities. Further, Plaintiff's medical records will further document plaintiff's symptoms. The Plaintiff is currently on oxygen.

50. Identify each person you may call as a witness at trial and provide for each the full name, last known address and phone number.

**RESPONSE:** Objection. This interrogatory will be supplemented at the appropriate time.

**SUPPLEMENTAL RESPONSE:** Objection. At this time, the Plaintiff would anticipate that he would testify, the experts identified in his expert designation will likely testify, and possibly his wife. It is not anticipated that any co-workers will testify. This has not been determined at this time. This interrogatory will be further supplemented.

53. Identify all persons, including fact witnesses, whom you know or believe have knowledge of facts relevant to the issues in this lawsuit.

**RESPONSE:** Objection. This interrogatory seeks privileged information. However, without waiving said objection, Larry McLawrence, James Barnes, Tyrone Hicks, Linda Chapman, James Hayes, Leanden Gavin, John McLaurin, Red Hardy, Sam Love, John Cole, Bobby Taylor, Tom Pittman, and Fred Pittman.

**SUPPLEMENTAL RESPONSE:** Objection. This interrogatory seeks privileged information. However, without waiving said objection, Larry McLawrence, James Barnes, Tyrone Hicks, Linda Chapman, James Hayes, Leanden Gavin, John McLaurin, Red Hardy, Sam Love, John Cole, Bobby Taylor, Tom Pittman, and Fred Pittman. Some of these individuals are deceased, and I do not know their addresses or telephone numbers. Further, please see my previous deposition testimony.

54. State whether the you attended a screening, meeting, testing or evaluation for the purpose of determining or assessing whether you had been exposed to asbestos and/or silica and/or have an asbestos and/or silica related disease.

**RESPONSE:** Objection. Screening is not a defined term; therefore, this interrogatory is vague and ambiguous.

**SUPPLEMENTAL RESPONSE:** Objection. Screening is not a defined term; therefore, this interrogatory is vague and ambiguous. With waiving said objection, see response to Interrogatory No. 24.

- 55. For each and every time you attended a screening, meeting, testing or evaluation (collectively "screening) for the purpose of determining or assessing whether you had an asbestos and/or silica related injury, please identify the following:
  - a. the date the screening took place;

b. the location of the screening:

c. whether the screening was for determining whether plaintiff has an asbestos related injury or a silica related injury or both;

d. the entities (including without limitation law firms, screening companies, clinics, physicians, physicians offices or hospitals) involved in the screening; and

e. how you knew about the screening.

RESPONSE: See response to Interrogatory No. 54.

SUPPLEMENTAL RESPONSE: See response to Interrogatories No. 24 and No. 54.

57. For every health care provider who you believe has expressed an opinion regarding whether the injuries or damages you are claiming in this lawsuit were caused by or related to exposure to asbestos and/or silica, identify those health care providers and all reports and/or tests that he/she has relied upon to formulate those opinions.

RESPONSE: Objection. This interrogatory seeks information that is privileged.

**SUPPLEMENTAL RESPONSE:** The Plaintiff is currently being treated for his lung disease of silicosis. The information sought by this interrogatory can be obtained from Plaintiff's medical records that Defendants have in their possession.

58. If you assert privilege or immunity from discovery as grounds for refusal to answer any interrogatory or request for production of documents set forth herein, please name the privilege or immunity asserted, provide a generic description of any documents as to which privilege or immunity is claimed, and explain in detail the grounds upon which said claim of privilege or immunity is based.

**RESPONSE:** This response will be supplemented.

SUPPLEMENTAL RESPONSE: Not applicable except as stated above.

### REQUESTS FOR PRODUCTION

37. A copy of Plaintiffs marriage certificate.

RESPONSE: Not Applicable.

#### SUPPLEMENTAL RESPONSE: See Attached.

44. Plaintiffs federal and state income tax returns for each of the past ten years.

**RESPONSE:** Plaintiff is providing an authorization to obtain said tax records. This authorization is being provided solely upon the condition that any records obtained with this authorization are to be provided to Plaintiff's counsel within 10 days of receipt of said records at no expense to Plaintiff's counsel.

SUPPLEMENTAL RESPONSE: The Plaintiff has been on Social Security disability since the early 2000's. Plaintiff has provided an authorization to obtain said tax records. This authorization is being provided solely upon the condition that any records obtained with this authorization are to be provided to Plaintiff's counsel within 10 days of receipt of said records at no expense to Plaintiff's counsel. Although, the Defendants have information that the Plaintiff filed in 2007 this may have been a joint tax return with his wife. The Plaintiff does not believe he has filed tax returns since going on disability. If the Plaintiff is able to find any tax returns, the same will be produced to the Defendants. The Plaintiff would further state that the only relevant tax returns would be prior to him going on disability. The Defendants are not entitled to a set off for Social Security Disability payments made by the government because this would be subject to the collateral source rule.

66. Any and all documents created, used or reviewed at any screening, meeting, testing or evaluation listed in Interrogatory 2, including but not limited to occupational and/or medical questionnaires, A-sheets, x-ray films, pulmonary function test reports, B-reader reports, x-ray review reports, x-ray prescriptions, PFT prescriptions, diagnostic/prognostic reports, exposure history reports, "sign in or "sign out" sheets, PFT logs, PFT calibration records, attorney selection sheets, or waivers.

**RESPONSE:** Please see attached authorizations. These authorizations are being provided under the condition that any records obtained with these authorizations are to be provided to plaintiff's counsel within 10 days of receipt of said records at no expense to Plaintiff's counsel.

**SUPPLEMENTAL RESPONSE:** Plaintiff's counsel has produced any B-read reports from testings that are in their possession. The other B-read reports and materials can be obtained from Jon Swartzfager. The Plaintiff is not aware that any of the other information exists. If any is discovered, it will be produced subject to any privileges that may or may not apply to the requested documents. After a diligent search, none has been located at this time.

67. All documents which you or anyone on your behalf received from any testing entity, clinic, physician, physicians office or hospital who has performed or reviewed x-rays, pulmonary function tests, B-reads, x-ray reviews, biopsies and/or physical examinations on you for the purpose of determining or assessing whether you have been exposed to asbestos and/or silica and/or have an asbestos and/or silica related disease.

RESPONSE: See response to Request for Production No. 66.

SUPPLEMENTAL RESPONSE: See response to Request for Production No. 66.

68. All documents which you have received from any lawyer or law firm regarding any occupational and/or medical questionnaires, x-rays, pulmonary function tests, B-reads, x-ray reviews, biopsies and/or physical examinations on you for the purpose of determining or assessing whether he was exposed to asbestos and/or silica and/or have an asbestos and/or silica related disease.

**RESPONSE:** Objection. This requests seeks privileged information. Without waiving said objection, see response to Request for Production No. 66.

**SUPPLEMENTAL RESPONSE:** Objection. This requests seeks privileged information. Without waiving said objection, see response to Request for Production No. 66.

69. All documents (including but not limited to occupational and medical questionnaires and/or histories) provided to you, filled out or answered for any testing entity, clinic, physician, physicians office or hospital who performed or reviewed x-rays, pulmonary function tests, B-reads, x-ray reviews, biopsies and/or physical examinations on you to determine or assess whether you had been exposed to asbestos and/or silica or have an asbestos and/or silica related disease.

**RESPONSE:** Please see attached authorizations. These authorizations are being provided under the condition that any records obtained with these authorizations are to be provided to plaintiff's counsel within 10 days of receipt of said records at no expense to Plaintiff's counsel.

## SUPPLEMENTAL RESPONSE: See Response to No. 66.

71. Any and all documents regarding and/or identifying all persons who attended any screening, meeting, testing or evaluation listed in Interrogatory 2, including but not limited to occupational and/or medical questionnaires, A-sheets, x-ray films, pulmonary function test reports, B-reader reports, x-ray review reports, x-ray prescriptions, PFT prescriptions, diagnostic/prognostic reports, exposure history reports, "sign in or "sign out sheets, PFT logs, PFT calibration records, attorney selection sheets, or waivers.

**RESPONSE:** Objection. This request seeks privileged information. Without waiving said objection, Plaintiff does not have any documents related to this request at this time.

SUPPLEMENTAL RESPONSE: Objection. This request seeks privileged information. Without waiving said objection, Plaintiff does not have any documents related to this request at this time.

This, the 15th day of May, 2010.

## Case 2:10-cv-00159-KS-MTP Document 8-15 Filed 07/06/10 Page 16 of 17

This, the 4th day of May, 2010.

Respectfully submitted,

JOHN MCGILBERRY, PLAINTIFF

JOHN MCGILBERRY

As to All Objections and Responses to Requests for Production of Documents:

Ву: \_\_\_\_\_

TIMOTHY W. PORTER, Attorney for Plaintiff

#### Of Counsel:

Timothy W. Porter, MSB No. 9687 Patrick C. Malouf, MSB No. 9702 John T. Givens, MSB No. 101561 PORTER & MALOUF, P.A. Post Office Box 12768 Jackson, Mississippi 39236-2768 Telephone: (601) 957-1173 Facsimile: (601) 957-7366

R. Allen Smith, Jr., MSB No. 99984 THE SMITH LAW FIRM, P.L.L.C. 681 Towne Center Boulevard, Suite B Ridgeland, Mississippi 39157 Telephone: (601) 952-1422 Facsimile: (601) 952-1426

STATE OF MISSISSIPPI	
COUNTY OF Jones	
on oath that the matters facts and things all instrument are true and correct as therein s	efore me the undersigned in and for the jurisdiction LBERRY, who being by me, first duly sworn, and states leged contained and set forth in the above and foregoing tated.
This, the 14 day of May, 2010.	
SWORN AND SUBSCRIBED before	John McGilberry  Tohn McGilberry  The me this, the 14 day of May, 2010.
(Seal)	Molly M. Fhitter NOTARY PUBLIC
My Commission Expires:	ID No 69864 NOTARY PUBLIC Comm Expires May 26, 2011

# IN THE CIRCUIT COURT FOR THE FIRST JUDICIAL DISTRICT OF JONES COUNTY, MISSISSIPPI

JOHN MCGILBERRY

**PLAINTIFF** 

VS.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, ET AL.

**DEFENDANTS** 

## PLAINTIFF'S RESPONSES TO CLARK SAND COMPANY, INC.'S REQUESTS FOR ADMISSIONS, REQUESTS FOR PRODUCTION OF DOCUMENTS AND INTERROGATORIES

COMES NOW, Plaintiff, by and through his attorneys of record, and files this his responses to Clark Sand Company's Inc.'s Requests for Admissions, Requests for Production of Documents and Interrogatories, pursuant to the *Mississippi Rules of Civil Procedure* as follows, to-wit:

## PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

Plaintiff's Responses to each of these Interrogatories incorporates this Preliminary Statement and these General Objections.

- 1. The Plaintiff objects to these Interrogatories to the extent that they seek information subject to the attorney-client privilege or which constitutes protected work product.
- 2. The Plaintiff objects to any discovery request that purports to impose upon it any obligation not expressly set forth in the *Mississippi Rules of Civil Procedure*.
- 3. The Plaintiff objects to any discovery request to the extent that the time periods referenced therein are not limited in scope.
- 4. The Plaintiff objects to any discovery request to the extent it seeks to require Plaintiff to provide information which is equally available to the Defendant.
- 5. The Plaintiff objects to any discovery request to the extent that it seeks disclosures of information generated by persons other than Plaintiff or Plaintiff's counsel that has come into the possession of Plaintiff or Plaintiffs' counsel during the course of discovery and trial preparation in asbestos-related litigation.
- 6. The Plaintiff objects to any discovery request to the extent that it improperly calls for a legal, medical, or scientific opinion or conclusion which Plaintiff is not qualified to render.
- 7. The Plaintiff does not concede that any response to any discovery request is or will be admissible evidence at a trial of this action.
- 8. The Plaintiff objects to these Interrogatories to the extent that they are overly broad, vague and duplicative.

EXHIBIT "P"

### REQUESTS FOR ADMISSIONS

1. Admit John McGilberry was a plaintiff in the following lawsuit wherein he claimed damages from occupational exposure to asbestos:

Jake Newell, et al. v. Minnesota Mining and Manufacturing Company, et al., Cause No. 2002-27-CV7, In the Circuit Court of Jones County, Mississippi, First Judicial District.

Copies of the *Newell* complaint and amended complaint are attached as Exhibit 1 and 2, respectively, for your convenience. (Hereinafter referred to as either "*Newell*" or "asbestos complaint.")

**RESPONSE:** Based upon information and belief, admitted that Mr. McGilberry was a plaintiff and was subsequently dismissed.

2. Admit that counsel for the Newell complainants/plaintiffs was Porter & Malouf, P.A.

**RESPONSE:** Based upon information and belief, admitted that Porter & Malouf, P.A. signed the complaint.

3. Admit that the individual counsel from Porter & Malouf, P.A. listed as representing the *Newell* plaintiffs were Timothy W. Porter and Patrick C. Malouf.

**RESPONSE:** Based upon information and belief, admitted that Patrick Malouf signed the complaint.

4. Admit that the *Newell* complaint was first filed June 27, 2002.

**RESPONSE:** Based upon information and belief, admitted.

5. Admit that John McGilberry's asbestos complaint alleged he was exposed to and inhaled or otherwise ingested significant quantities of asbestos. (For reference see page 3 of exhibits 1 and 2.)

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself and is nothing more than a notice pleading with yet to be proven allegations. Without waiving said objection, neither enough information to admit or deny, so denied.

6. Admit that John McGilberry's asbestos complaint alleged because of his exposure to, inhalation of or other exposure to asbestos he received injuries, both physically and mentally, such as asbestosis, pulmonary and bronchogenic carcinoma, mesothelioma, reduced lung volume, pleural plaques, interstitial lung fibrosis and cardiac and circulatory disease, and increased physical and mental anguish associated with the increased susceptibility to one of the foregoing diseases; and ultimately death. (For

reference, see page 3 of exhibits 1 and 2.)

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself and is nothing more than a notice pleading with yet to be proven allegations. Without waiving said objection, neither enough information to admit or deny, so denied.

7. Admit that John McGilberry claimed damages for physical and mental pain and anguish, lost wages, lost wage earning capacity, loss of consortium, loss of society and companionship, medical and pharmaceutical expenses and the continuation of damages for physical and mental pain and anguish, disability, and loss of enjoyment of life as a direct and proximate result of inhaling, ingesting or otherwise being exposed to asbestos. (For reference see page 4 of exhibit 1 and page 3 of exhibit 2.)

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself and is nothing more than a notice pleading with yet to be proven allegations. Without waiving said objection, neither enough information to admit or deny, so denied.

8. Admit that John McGilberry claimed in the asbestos complaint that use of 3-M Corporation's respiratory protection proximately caused him injury. (For reference see pages 10-11 in exhibit 1 and pages 9-10 in exhibit 2.)

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself and is nothing more than a notice pleading with yet to be proven allegations. Without waiving said objection, neither enough information to admit or deny, so denied.

9. Admit that John McGilberry's damages as a direct and proximate result of the *Newell* defendants' breaches of duty were the contraction of an asbestos-related injury, disease and/or condition, pain and suffering, medical treatment, medical expenses, past disability, impairment of wages, and a diminution in quality of life, including mental anguish, fear, and severe emotional distress associated with knowing there is no cure for the illness or disease. (For reference, see page 17 of exhibit 1 and 15 of exhibit 2.)

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself and is nothing more than a notice pleading with yet to be proven allegations. Without waiving said objection, neither enough information to admit or deny, so denied.

10. Admit that John McGilberry's asbestos complaint pled injuries caused or contributed to by exposure to asbestos in the asbestos lawsuit.

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself and is nothing more than a notice pleading with yet to be proven allegations. Without waiving said objection, neither enough information to admit or deny, so denied.

11. Admit that John McGilberry's asbestos complaint pled an asbestos-related injury, meaning an injury related to exposure to an asbestos-related product.

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself and is nothing more than a notice pleading with yet to be proven allegations. Without waiving said objection, neither enough information to admit or deny, so denied.

12. Admit that John McGilberry's asbestos complaint sued the defendant companies for their asbestos-related product(s).

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself and is nothing more than a notice pleading with yet to be proven allegations. Without waiving said objection, neither enough information to admit or deny, so denied.

13. Admit that John McGilberry did not sue any defendant in the *Newell* complaint for silica or silica-related product(s).

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself and is nothing more than a notice pleading with yet to be proven allegations. Without waiving said objection, neither enough information to admit or deny, so denied.

14. Admit that John McGilberry did not make any allegation in the *Newell* complaint against any defendant for selling sand for sandblasting.

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself and is nothing more than a notice pleading with yet to be proven allegations. Without waiving said objection, neither enough information to admit or deny, so denied.

15. Please admit that John McGilberry did not sue any company in the asbestos complaint that is also a defendant in this suit.

RESPONSE: Denied, the Plaintiff sued American Optical in both cases.

16. Admit that the following doctor evaluated John McGilberry for an asbestos-related condition:

Dr. Jay Segarra 10/9/04.

Attached as Exhibit 3.

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself. Further the Plaintiff does not specifically recall seeing a Dr. Segarra. Without waiving said objection, neither enough information to admit or deny, so denied.

17. Admit that Dr. Segarra's October 9, 2004 report reflects the correct name, address, date of birth and social security number for John McGilberry.

RESPONSE: Admitted.

18. Admit that Dr. Segarra's October 9, 2004 report cited that John McGilberry had been exposed to sandblasting "on two occasions."

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself. Without waiving said objection, admitted that the document states this, but it is not admitted that this is a true and correct statement.

19. Admit that Dr. Segarra's October 9, 2004 report reflects a "long history of pulmonary sarcoidosis" which was established by biopsy.

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself. The Plaintiff further objects to this Request as it seeks to verify Dr. Segarra's opinions through the Plaintiff's response. Therefore, this is an improper Request for Admission. As such, it is denied.

20. Admit that Dr. Segarra concluded in his October 9, 2004 report that there is "no convincing evidence for pneumoconiosis, either asbestosis or silicosis."

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself. The Plaintiff further objects to this Request as it seeks to verify Dr. Segarra's opinions through the Plaintiff's response. Therefore, this is an improper Request for Admission. As such, it is denied.

21. Admit that John McGilberry filed for benefits under Titles II and XVI of the Social Security Act (referred to as a "disability claim") on April 20, 2001.

RESPONSE: Admitted.

22. Admit that John McGilberry alleged he became disabled as of February 27, 2001.

**RESPONSE:** Admitted.

23. Admit that John McGilberry's disability claim was sarcoidosis, asthma, asbestosis, carpal tunnel syndrome, high blood pressure, chest and back pain. (For reference, see bates SSA36)

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

24. Admit that John McGilberry affirmed that his claimed illness, injury or condition first

began to bother him on January 10, 1986. (For reference, see bates SSA88-96)

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

25. Admit that John McGilberry's disability claim was initially denied on August 17, 2001.

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

26. Admit that John McGilberry requested reconsideration of the denial. (SSA00039)

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

27. Admit that a hearing was held before an Administrative Law Judge on May 8, 2002. (SSA00009)

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

28. Admit that the hearing before the Administrative Law Judge took place on May 8, 2002. (SSA00009)

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

- 29. Admit that the medical evidence that John McGilberry submitted to the Social Security Administration in support of his disability included, but was not limited to the following documents:
  - (a) the claim that McGilberry was totally unable to work due to sarcoidosis, asthma, asbestosis, carpal tunnel syndrome, high blood pressure, chest and back pain (see SSA00036; 00010);
  - (b) medical record from Dr. Lewis W. Neese from John McGilberry's visit of March 11, 2002 diagnosing McGilberry with Sarcoidosis, stage III, COPD and bronchitis (see SSA00111-113; 00010);
  - (c) medical record from Forrest General Hospital from October 11, 2001 in

- which John McGilberry was diagnosed with "chronic obstructive pulmonary disease exacerbation Stage 3 sarcoidosis" (see SSA00132-134; 00010);
- (d) medical record from Hattiesburg Clinic dated August 22, 2001 wherein John McGilberry saw Dr. Mark Marrow who diagnosed him with Stage III sarcoidosis (see SSA00137-138; 00010);
- (e) correspondence from Dr. Lewis W. Neese to the Social Security Administration wherein Dr. Neese stated that he "would consider [McGilberry] to be medically disabled and unable to engage in continued long term employment." (see SSA 00272; 00010); and
- (f) correspondence from Dr. Lewis W. Neese to the Social Security Administration wherein Dr. Neese asked for reconsideration on denial of benefits for the plaintiff because he has been treating John McGilberry for stage III sarcoidosis with associated severe chronic obstructive pulmonary disease which, in Dr. Neese's opinion, qualifies the plaintiff as disabled. (see SSA 00273; 00010).

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

30. If you do not admit Request for Admission No. 29, please admit that John McGilberry submitted as evidence in support of his disability claim a statement that he was totally unable to work due to sarcoidosis, asthma, asbestosis, carpal tunnel syndrome, high blood pressure, chest and back pain. (see SSA00036; 00010)

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

31. If you do not admit Request for Admission No. 29, please admit that John McGilberry submitted as evidence in support of his disability claim medical records from Dr. Lewis W. Neese from John McGilberry's visit of March 11, 2002 diagnosing McGilberry with Sarcoidosis, stage III, COPD and bronchitis. (see SSA00111-113; 00010)

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

32. If you do not admit Request for Admission No. 29, please admit that John McGilberry submitted as evidence in support of his disability claim medical records from Forrest General Hospital from October 11, 2001 in which John McGilberry was diagnosed with "chronic obstructive pulmonary disease exacerbation Stage 3 sarcoidosis." (see SSA00132-134; 00010)

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

33. If you do not admit Request for Admission No. 29, please admit that John McGilberry submitted as evidence in support of his disability claim medical records from Hattiesburg Clinic dated August 22, 2001 wherein John McGilberry saw Dr. Mark Marrow who diagnosed him with Stage III sarcoidosis. (see SSA00137-138; 00010)

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

34. If you do not admit Request for Admission No. 29, please admit that John McGilberry submitted as evidence in support of his disability claim correspondence from Dr. Lewis W. Neese to the Social Security Administration wherein Dr. Neese stated that he "would consider [McGilberry] to be medically disabled and unable to engage in continued long term employment." (see SSA 00272; 00010)

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

35. If you do not admit Request for Admission No. 29, please admit that John McGilberry submitted as evidence in support of his disability claim correspondence from Dr. Lewis W. Neese to the Social Security Administration wherein Dr. Neese asked for reconsideration on denial of benefits for the plaintiff because he has been treating John McGilberry for stage III sarcoidosis with associated severe chronic obstructive pulmonary disease which, in Dr. Neese's opinion, qualifies the plaintiff as disabled. (see SSA 00273; 00010).

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

- 36. Admit that on June 26, 2002, Administrative Law Judge Nancy L. Brock rendered a decision on behalf of the Social Security Administration in which she made the following findings:
  - (a) John McGilberry is insured under Title II of the Social Security Act through December 2005;
  - (b) John McGilberry has not engaged in substantial gainful activity since

- February 27, 2001;
- (c) The medical evidence establishes that the claimant has the medically determinable severe impairment of sarcoidosis, stage II, with chronic obstructive pulmonary disease;
- (d) the severity of the claimant's impairment meets the requirements of section 3.02A Chronic Obstructive Pulmonary Disease, Appendix 1, Subpart P of the Social Security regulations; and
- (e) John McGilberry has been under a disability, as defined in the Social Security Act, since February 27, 2001. (see SSA 00011-12)

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

37. Based upon the Administrative Law Judge's findings of fact, the decision entitled John McGilberry to disability commencing February 27, 2001 and to disability insurance benefits. (see, SSA 00012)

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. Further, the documents speak for themselves.

38. Admit that on July 27, 2002 the Social Security Administration granted John McGilberry disability based on Judge Brock's findings. (see, SSA 00001)

**RESPONSE:** Since the documents referenced were not produced along with these Requests for Admissions, neither enough information to admit or deny, so denied. It is admitted that the Plaintiff receives Social Security Disability benefits. Further, the documents speak for themselves.

39. Admit that John McGilberry has been receiving disability payments since 2002.

RESPONSE: Admitted.

40. Admit that John McGilberry did not file for disability based on a silica-related disease.

**RESPONSE:** This response calls for expert medical testimony and is therefore an improper request. Without waiving said objection, denied.

41. Admit that John McGilberry did not file for disability based on silicosis.

**RESPONSE:** This response calls for expert medical testimony and is therefore an improper request. Without waiving said objection, denied.

42. Admit John McGilberry was a plaintiff in George Buffington, et al. v. Pulmosan Safety Equipment, et al., Civil Action No. 2002-194-CV6 In the Circuit Court of Jones County, Mississippi, Second Judicial District.

Attached are copies of the *Buffington* complaint and amended complaint as Exhibits 4 and 5, respectively.

#### RESPONSE: Admitted.

43. Admit that the *Buffington* case was originally filed on June 14, 2002.

#### **RESPONSE:** Admitted.

44. Admit that John McGilberry sought damages related to exposure to silica in *Buffington*.

## RESPONSE: Admitted.

Admit that the following defendant/companies were sued in the Buffington case: Air 45. Liquide America Corporation successor by merger of Big Three Industries, Inc., Baroid Drilling Fluids, Inc., Big Three Industries, Inc., Binks Manufacturing Company, Bowto Inc., f/k/a Bowen Tools, Inc., Bowen Tools, Inc. and its division, Sanstorm Company, Briggs-Weaver Company, D & B Sand & Sand & Gravel Company, Inc., Dalloz Safety Inc. f/k/a WGM Safety Corporation d/b/a Willson Safety Products, Graco Enterprises, Guardian Safety Equipment Company, Homes Technical Sand, Inc., Jet Sands, Inc., Louis M. Gerson, Inc., Minnesota Mining & Manufacturing, Pearl River Sand & Gravel Co., Inc., Schramm, Inc., Scott Aviation, a division of Scott Technologies, Siebenorth, Inc., Sandair MS, Inc., Standard Sand Company, Sullair Corporation, Survivair, Inc., Tab Industries, Technical Sand Company, U.S. Silica Company, formerly Pennsylvania Glass Sand Corporation, Vallen Safety Supply, Wheeler Protective Apparel, Inc., Gulf States Supply Company, Inc., National Welding Company, f/k/a National Welding Supply Company, Inc., Rent All of Laurel, Inc., Pine Belt Ready-Mix Concrete, Inc., Phillips Building Supply of Laurel, Inc., individually and as successor by merger of Laurel Building Supply, and as successor by merger of Green and Harris Building Supply, H & L Pump & Supply, Inc. (Baxter Division), f/k/a Heidleberg Pump & Supply Company, Inc. (Baxter Division), Haliburton Energy Services, Inc., f/k/a Haliburton Company, Laurel Oil and Supply Company, Inc., American Sand and Gravel Company, individually and as successor by merger of Hattiesburg Brick Works, Bush Construction Company, Inc., Lowery Sand & Gravel, Inc., W.J. Runyon & Son, Inc., individually and as successor by merger of Runyon Construction Company, as successor by merger of Diamond Island Sand & Gravel Co., Inc., and as successor by merger of Runyon Equipment Company, Inland Manufacturing, Jebco Abrasives, Inc., John Barton, Individually and d/b/a John Barten Company and JB Industries

Sand, J.J. Ferguson Sand & Gravel Inc., Lockheed Martin Corporation, successor in interest to Martin Marietta Corporation (successor to Wedron Silica Company), Martin Marietta Materials, Inc., individually and successor in interest to R & S Haulers and Distributors, Inc., 3M Company, f/k/a and/or a/k/a Minnesota Mining & Manufacturing Company (3M), Norton Company (Safety Products Division - USA Norton Company), individually and as successor in interest to Welsh and Welsh, a division of Textron, Oglebay Norton Industrial Sands, Inc., f/k/a Texas Mining Company, Ottawa Silica Company, Louisiana Partnership Pearl/James Joint Venture, Phillips Building Supply of Laurel, Inc., individually and as successor by merger of Laurel Building Supply, and as successor by merger of Green and Harris Building Supply, PTR Inc., d/b/a H.S. Cover Company, Rental Service Corporation, a/k/a and/or f/k/a Rental Service Corporation USA, Inc., individually and as successor by merger of Walker Jones Equipment Inc., Sanstorm, Inc. d/b/a Delaware Sanstorm, Inc. (a division of Bowen Tools, Inc.), Sherwin-Williams Company, Siebe North Inc., n/k/a North Safety Products, Inc., Textron Inc., individually and as successor in interest to Welsh and Welsh, The Vallen Corporation, Vulcan Materials Company, Wedron Silica Company, Wheelabrator-Frye, Inc., Wheeler Protective Apparel, Inc.

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself and is nothing more than a notice pleading with yet to be proven allegations. Without waiving said objection, neither enough information to admit or deny, so denied. Further, the Plaintiff sued John Doe Defendants.

46. Admit that John McGilberry swore he used products manufactured or sold by the following companies: Phillips Building Supply, American Sand and Gravel, Sullair, Gerson, Specialty Sand Company, Lone Star Industries, Ottawa Silica Company, Pine Belt Ready Mix, Air Liquide, Sanstorm, Pauli & Griffin, Walker Jones Equipment Rental, 3M, Standard Sand & Silica Co., Unimin, Norton, Oxwall, Bondo, Dupont, Texas Mining Company, and Oglebay Norton.

**RESPONSE:** The Plaintiff objects to this request as the document speaks for itself. The Plaintiff admits that he filled out several fact sheets in consultation with former counsel. Without waiving said objection, neither enough information to admit or deny, so denied.

47. Admit that John McGilberry continues to believe that he used products manufactured or sold by: Phillips Building Supply, American Sand and Gravel, Sullair, Gerson, Specialty Sand Company, Lone Star Industries, Ottawa Silica Company, Pine Belt Ready Mix, Air Liquide, Sanstorm, Pauli & Griffin, Walker Jones Equipment Rental, 3M, Standard Sand & Silica Co., Unimin, Norton, Oxwall, Bondo, Dupont, Texas Mining Company, and Oglebay Norton.

**RESPONSE:** Denied except as to 3M. Further, the Plaintiff's deposition testimony speaks for itself.

48. Admit that John McGilberry believes he was harmed by the use of products manufactured or sold by: Phillips Building Supply, American Sand and Gravel, Sullair, Gerson, Specialty Sand Company, Lone Star Industries, Ottawa Silica Company, Pine Belt Ready Mix, Air Liquide, Sanstorm, Pauli & Griffin, Walker Jones Equipment Rental, 3M, Standard Sand & Silica Co., Unimin, Norton, Oxwall, Bondo, Dupont, Texas Mining Company, and Oglebay Norton.

**RESPONSE:** Denied except as to 3M. Further, the Plaintiff's deposition testimony speaks for itself.

49. Admit that John McGilberry received settlement money from certain defendant companies sued in the *Buffington* case.

**RESPONSE:** Objection as this Request seeks information that is confidential. Further, objection is made as this information may only be relevant when and if a verdict is obtained in this case. The Plaintiff will admit that he received settlement money from one defendant in the *Buffington* case.

50. Admit that John McGilberry accepted the settlement money from certain companies in the *Buffington* case because he believed he had been harmed by their product(s).

**RESPONSE:** See response to Request No. 49. Neither enough information to admit or deny, so denied.

51. Admit that John McGilberry accepted the settlement money from certain companies in the *Buffington* case because he believed he used or was exposed to their product(s).

**RESPONSE:** See response to Request No. 49. Neither enough information to admit or deny, so denied.

52. Admit that John McGilberry received settlement money from certain defendant companies sued in the *Newell* case.

RESPONSE: Denied.

Admit that John McGilberry accepted the settlement money from certain companies in the *Newell* case because he believed he had been injured by their product(s).

RESPONSE: See Response to Request No. 52. Denied.

54. Admit that John McGilberry accepted settlement money from certain companies in the *Newell* complaint because he believed he used or was exposed to their product(s).

**RESPONSE:** See Response to Request No. 52. Denied.

55. Admit that John McGilberry swore that he has an asbestos-related condition.

**RESPONSE:** The complaint is nothing more than a notice pleading that is not sworn to under oath by the Plaintiff so denied.

56. Admit that John McGilberry believes he has an asbestos-related condition.

**RESPONSE:** The Plaintiff's belief is not relevant, only expert medical testimony is relevant. Therefore, denied.

57. Admit that John McGilberry has an asbestos-related condition.

RESPONSE: Denied.

58. Admit that John McGilberry swore he has coal workers pneumoconiosis.

**RESPONSE:** The complaint is nothing more than a notice pleading that is not sworn to under oath by the Plaintiff so denied.

59. Admit that John McGilberry believes he has coal workers pneumoconiosis.

**RESPONSE:** The Plaintiff's belief is not relevant, only expert medical testimony is relevant. Therefore, denied.

60. Admit that John McGilberry has coal worker pneumoconiosis.

RESPONSE: Denied.

61. Admit that John McGilberry believes he has sarcoidosis.

**RESPONSE:** The Plaintiff's belief is not relevant, only expert medical testimony is relevant. Therefore, denied.

62. Admit that John McGilberry has sarcoidosis.

**RESPONSE:** This response calls for expert medical testimony and is therefore an improper request. Without waiving said objection, denied.

63. Admit that John McGilberry believes he has COPD.

**RESPONSE:** The Plaintiff's belief is not relevant, only expert medical testimony is relevant. Therefore, denied.

64. Admit that John McGilberry has COPD.

**RESPONSE:** This response calls for expert medical testimony and is therefore an improper request. Without waiving said objection, denied.

#### REQUESTS FOR PRODUCTION

1. If you deny any of the foregoing requests for admissions, please produce all documents which support the denial.

**RESPONSE:** None to produce at this time. This response will be supplemented with Dr. Haber's report and deposition testimony.

2. Please produce any and all information you have regarding any settlements of the lawsuits listed in the requests for admissions.

**RESPONSE:** Objection as this seeks information that is confidential and only relevant upon a verdict being obtained in this matter.

3. Please produce all documents within your possession, custody or control which relates to any of the lawsuits listed in the aforementioned requests for admissions.

RESPONSE: Already produced.

#### **INTERROGATORIES**

1. If you deny any request for admission, please explain your denial, the basis of the denial and all proof to support your denial.

ANSWER: The Plaintiff objects to this Interrogatory as being beyond the scope of discovery, overly broad, and unduly burdensome, and is simply intended to harass the Plaintiff and Plaintiff's counsel. Further, see responses to Requests for Admissions.

2. Has John McGilberry or anyone on his behalf filed any other lawsuits other than the suits listed in the foregoing Requests for Admissions and the underlying cause?

ANSWER: None to Plaintiff's or Plaintiff's counsel knowledge except any other lawsuits that may have been referenced in Mr. McGilberry's prior depositions.

3. Has John McGilberry had any other civil lawsuits filed against him?

ANSWER: None to Plaintiff's or Plaintiff's counsel knowledge except any other lawsuits

that may have been referenced in Mr. McGilberry's prior depositions.

4. Please list the name/style of the case, date filed, lawyers or law firms involved, the type of lawsuit, and the county filed in for any lawsuit filed on behalf of or against John McGilberry.

ANSWER: See Response to Interrogatories No. 2 and 3.

This, the 23rd day of June, 2010.

Respectfully submitted,

JOHN MCGILBERRY, PLAINTIFF

Bv:

JOMN T. GIVENS, Attorney for Plaintif

#### Of Counsel:

Timothy W. Porter, MSB No. 9687 Patrick C. Malouf, MSB No. 9702 John T. Givens, MSB No. 101561 PORTER & MALOUF, P.A. Post Office Box 12768 Jackson, Mississippi 39236-2768 Telephone: (601) 957-1173 Facsimile: (601) 957-7366

R. Allen Smith, Jr., MSB No. 99984 THE SMITH LAW FIRM, P.L.L.C. 681 Towne Center Boulevard, Suite B Ridgeland, Mississippi 39157 Telephone: (601) 952-1422

Facsimile: (601) 952-1426

## **CERTIFICATE OF SERVICE**

I, JOHN T. GIVENS, hereby certify that I have this day caused a true and correct copy of the above and foregoing instrument to be electronically delivered to all known counsel of record.

This, the 23rd day of June, 2010.

JOHN T. GIV

Case 2:10-cv-00159-KS-MTP Document 8-17 Filed 07/06/10 Page 1 of 48 IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT APPEARANCES: JOHN GIVENS, ESQUIRE Porter & Malouf 825 Ridgewood Road Ridgeland, Mississippi 39157 JOHN MCGILLBERRY PLAINTIFF **VERSUS** NO. 2007-16-CV5 PANGBORN CORPORATION, ET AL. REPRESENTING PLAINTIFF DEFENDANT HALL ROACH, JR., ESQUIRE Willingham, Fultz & Cougill LLP 808 Travis, Ste. 1608 Houston, Texas 77002 REPRESENTING KELCO, BOB SCHMIDT, INC., AND SCHMIDT MANUFACTURING \*\*\*\*\*\*\*\*\*DEPOSITION OF JOHN MCGILLBERRY CHANEY NICHOLS, ESQUIRE Scott, Sullivan, Streetman & Fox 725 Avignon Drive Ridgeland, Mississippi 39157 Deposition Taken at the Instance of Plaintiff In the Offices of Hortman & Harlow Laurel, Mississippi On May 26th, 2010 Commencing at 9:24 a.m. REPRESENTING PULMOSAN ROBERT IRELAND, ESQUIRE Watkins & Eager, PLLC Post Office Box 650 Jackson, Mississippi 39205-0650 REPRESENTING AMERICAN OPTICAL REPORTED BY: CARRIE L. BENOIST Certified Shorthand Reporter CSR #1744 JENNIFFR SKIPPER, ESQUIRE Forman, Perry, Watkins, Krutz & Tardy Post Office Box 22608 Jackson, Mississippi 39225-2608 REPRESENTING CLARK SAND, INC. MARK EDWARDS, ESQUIRE Page Mannino, Peresich & McDermott 460 Briarwood Drive 3te 415 Jackson, Mississippi 39236 BOND & BENOIST Post Office Box 1576 Madison, Mississippi 39130 bondreporters@gmail.com REPRESENTING EMPIRE 

Table of Contents: Style..... 1 Appearances......2 Exhibit 1 marked......8 Exhibit 2 marked......10 Exhibit 3 marked.....14 Exhibit 4 marked.....19 Examination by Mr. Ireland......32 Examination by Ms. Skipper.....104 Exhibit 6 marked \_\_\_\_\_\_116 Exhibit 7 marked.....119 Exhibit 8 marked Exhibit 9 marked.....122 Exhibit 10 marked......133 Further Examination by Mr. Givens......179 Certificate of Reporter......191

Case 2:10-cv-00159-KS-MTP Document 8-17

THE VIDEOGRAPHER: This is the videotaped deposition of John McGillberry taken in the matter of John McGillberry v. Pangborn Corporation, et al., Civil Action No. 2007-16-CV5 in the Circuit Court of the First Judicial District of Jones County, Mississippi.

The date is May 26, 2010. The location is 414 West Oak Street, Laurel, Mississippi. The time, as indicated on the video screen, is 9:24 a.m. My name is Denise Hebert. I'm a certified legal video specialist with the Dancel Group.

Will counsel please introduce themselves?

MR. GIVENS: Johnny Givens for the plaintiff.

> MR. MCHALE: Thomas McHale for E.D. Bullard, 15 MR. ROACH: Hall Roach for Kelco and Bob

Schmidt.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MR. IRELAND: Robert Ireland for American Optical.

> MR. NICHOLS: Chancy Nichols for Pulmosan, MR. EDWARDS: Mark Edwards for Empire. MS. SKIPPER: Jennifer Skipper for Clark

Sand, Inc.

THE VIDEOGRAPHER: Will the court reporter please swear in the witness.

## Filed 07/06/10 Page 2 of 48

(Witness sworn)

#### EXAMINATION

BY MR. GIVENS:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

John, we're here today to take your testimony under oath, and you've sworn to tell the truth, the whole truth and nothing but the truth. What I do want to tell you is if you don't understand a question I ask, please ask me to rephrase it. And if you ever -- if you need to take a break at anytime, you just let us know and we'll stop and go off the record and then come back on the record.

Yes, sir.

Can you tell the jury your name? Q

Α John Elman McGillberry.

Q And what's your birthday, John?

Α

Q And that makes you how old?

Α Fifty-six.

Q And, John, where do you live?

Α I live in

Q How long have you lived in Ellisville, Mississippi?

Practically all of my life. Α

Q And so have you been a Mississippi resident

your whole life?

Α Yes, sir.

And, John, tell the jury a little bit about Q your family.

Well, I have five girls. I'm married. I've Α just got some wonderful kids and...

How many grandkids do you have? Q

Α I've got 16 grandkids.

Q And you have how many kids?

A Five girls.

Q Five girls.

And how long have you been married to your

wife?

About 38 years.

Okay. And, John, can you tell the jury about what year you approximately -- what year approximately you started first getting sick with your lungs?

Around '94 and -- between '94 and '95.

And can you tell the jury, John, approximately what year that you quit working, that you were no longer able to work?

It was in 2000.

And, Mr. McGillberry, I'm going to hand you what I want marked as Plaintiff's Exhibit 1.

Can you — can you identify that document for the jury, please?

It's my job history.

And does that job history appear to be accurate, to the best of your recollection?

Yes, sir.

(Exhibit 1 marked)

MS. SKIPPER: Do you have copies?

MR. GIVENS: I'm - I'm about to.

MS. SKIPPER: Perfect.

BY MR. GIVENS:

And let me - let me clear something up, John, on -- in regards to your work history. Are those the sites where you're claiming exposure --

Yes, sir. Α

-- to respirable silica? Q

Α

Q You did have other jobs besides those jobs, didn't you?

Yes, sir,

Okay. Thank you.

Now, what's the first work site listed on

that document?

Α Tom Pittman.

And what years do you recall working there,

1

11 12

13

14

15 16

17 18 19

20 21 22

23 24

1	based or	n that document?	1	going to mark as Plaintiff's Exhibit 2, of a picture
2	A	Around '94 and '95.	2	of a sandbag.
3	Q	You mean you said	3	
4	A	I mean, '74 and '75. My mistake.	4	Is that the Clark sandbag that you were around or used?
5	Q	Okay. And while you were working there, did	5	A Yes, sir.
6	you have	any opportunity to sandblast?	6	100,000
7	A	Yes, sir	7	MS. SKIPPER: Just for the record, we're objecting to authentication.
8	Q	Or be around sandblasting?	8	
9	A	Yes, sir.	9	MR. GIVENS: Okay. That's fine. (Exhibit 2 marked)
10	Q	And do you recall how long this sandblasting	10	BY MR. GIVENS:
11	job laste	d?	11	Q And were you exposed to this sand while
12	A	A day and a half.	12	working at Tom Pittman?
13	Q	And do you recall what y'all were	13	A Yes sir
14	sandblas	ting?	14	Q And do you recall if this bag — whether
15	A	Some steps.	15	this bag had a warning on it?
16	Q	. And did you did you have an opportunity	16	A Yes, sir.
17	to see an	y of the bags of sand that were being used?	17	Q And if the bag had a warning on it, did you
18	A	Yes, sir.	18	read that warning?
19	Q	And can you can you tell the jury the	19	A Yes, sir.
20	name on t	hat bag of sand?	20	Q And to your recollection, did that warning
21	Α	Clark.	21	state the word "silicosis"?
22	Q	And can you describe that bag that the sand	22	A Yes, sir.
23	came in?	•	23	1
24	Α	Brown bag with red letters.	24	Q And at that time when you were using that sand, did the word "silicosis" mean anything to you?
25	Q	Okay. And I'm going to show you what I'm	25	A No, sir.

1 Q Were you aware that silicosis was a -- is a 2 disabling and incurable lung disease? 3 No, sir. 4 And if you had known that silicosis was a 5 disabling and incurable lung disease, what would you 6 have done? 7 I wouldn't have used it. 8 And if this bag said something about a Q 9 delayed lung injury, would that have meant anything to 10 уоц? 10 11 Α No, sir. 11 12 And if you knew that a delayed lung injury 12 13 could cause you to be disabled or eventually die, what 13 14 would you have done? 14 15 I wouldn't have - I wouldn't have used it. 15 16 Now, based on Exhibit 1, where is the next 16 place that you worked at? Where --17 18 Daniel Construction, Apache, North Carolina. 18 Q And that's where it was located? That's 19 20 where the job site was? 20 That's where the job site was. 21 22 Okay. And what hours did you typically work 22 in a day at Daniel Construction? 23

17

19

21

23

24

25

was finished.

1

2

3

4

5

6

7

8

9

24

25

Okay. And so what were some of your -- what was your job title there?

Well, I was a laborer and a cement finisher.

And can you describe for the jury what a cement finisher and concrete work involved?

It was finishing the concrete and pouring it.

Would the concrete work ever require you to do any chipping?

Yes. And when you messed up a pour, you did a -- what they call a honeycomb. You have to go back in and chip it out and patch it back.

And do y'all ever have to do any jackhammering?

> Α Yes, sir.

Doing the concrete work, doing the - the chipping and the jackhammering, did you do this inside and outside?

Ninety percent of it was inside, and it's -it was a lot of outside, too.

Okay. And were you ever informed at that time that breaking up concrete could expose you to respirable silica?

No, sir.

Go in at seven, get off at three. Unless we're pouring concrete, we have to stay until the job

Case 2:10-cv-00159-KS-MTP Document 8-17 Q And was -- did you ever wear anything over your face while performing the concrete work? Yes, sir. 3 Okay. And isn't it true that you were Q 4 required -- what did you wear? I'm sorry. 5 The dust mask we used, it was the kind that 6 it -- it folds down, you know, when it's -- you know, . 7 you can lay it down and it'll be -- it'll be flat. 8 Then once -- once you use it, just open it up and you 9 put it on. It's got two straps on it. 10 Okay. And isn't it true that you're 11 required to wear a dust mask at all times at this job 12 site? 13 Α Yes, sir. 14 And would you get in trouble if you didn't? Q 15 Α 16 Can you tell the jury the — one type of the 17 dust mask you wore there? 18 Α AO. 19 AO. How did you know this was an AO mask? Q 20 It was printed on it, on the mask. 21 And did you wear this mask at various times Q

Filed 07/06/10 Page 4 of 48

I'll have marked as Exhibit 3. And I'm going to ask you if -- is that the AO dust mask you recall wearing at Daniel Construction?

Yes, sir.

(Exhibit 3 marked)

BY MR. GIVENS:

2

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

And would that mask lay flat when you weren't using it?

Yes, sir.

And would you -- were you able to put that mask into your pocket when you weren't using it?

Yes, sir.

MR. IRELAND: Object to the form. BY MR. GIVENS:

With these dust masks, did you ever have an opportunity to see or read any of the warnings or instructions that -- that came with these masks?

Yes, sir.

Q And can you tell the jury why you would wear these masks?

Α It was required to wear dust masks.

Was it your belief that these dust masks were protecting you from the -- the dust that you were creating from your jobs?

Yes, sir.

And if the mask had obtained or included an instructional warning that said, "Do not use this product in or around jackhammering because it did not provide adequate protection," what would you have done?

And I'm going to show you a picture, which

MR. IRELAND: Object to the form.

I wouldn't have used it. Α

BY MR. GIVENS:

And did the warnings or instructions that came with this product tell you not to use it around concrete work?

from 1979 to 1981?

Yes, sir.

Α

And if the instructions or warnings on these masks -- or that came with these masks said not to use in or around concrete work, what would you have done?

MR. IRELAND: Object to the form.

I wouldn't have used it.

BY MR. GIVENS:

Now, the next job where you were exposed to respirable silica, I believe, is Gordon Myrick?

Yes, sir.

And based on Exhibit 1, what years did you work at Gordon Myrick?

Α '96 -- I mean, '86 to '91.

Q Okay. And how long would a typical workday be there?

If we're not pouring the concrete, it's eight hours. If we're pouring the concrete, we have to stay until it's finished.

Okay. And were you ever around sandblasting Q while there?

Α Yes, sir.

And where was that at? Q

At H. Gordon Myrick's house.

And what was being sandblasted? Q

He had put some tongue and groove board down and it had wax on it and we had to sandblast the wax off of it.

And do you recall how long this particular job lasted?

> Α Approximately four days.

Q And what were you doing --

Somewhere around four days. Α

And what were you doing as part of the Q sandblasting process?

My job was the pot attendant.

And do you recall what the bags of sand you were using looked like at this job site?

Yes, sir.

Can you describe that to the jury? Q

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

Yes, sir.

MS. SKIPPER: Object to the form. BY MR. GIVENS:

Can you state the -- for the jury what the name of the -- on the bag of sand was?

Clark Sand.

And did these bags that you used at this time, did they have a warning on it, to the best of your recollection?

Yes.

M5. SKIPPER: Object to the form.

BY MR. GIVENS:

And would you have had the opportunity to read the warning on these bags?

Yes, sir.

If the warning stated the word "silicosis" at this time, would that have meant anything to you at that time?

> Α No, sir.

> > MS. SKIPPER: Object to the form.

BY MR. GIVENS:

And at that time, were you aware that

silicosis was a disabling -- is a disabling and incurable lung disease?

MS. SKIPPER: Object to the form.

Can you repeat the question again? BY MR. GIVENS:

At that time in the late -- when you used this in the late 1980s, that Clark Sand, were you aware that silicosis is a disabling and incurable lung disease?

MS. SKIPPER: Object to the form.

Α No. sir.

BY MR. GIVENS:

And if you had known that silicosis was a disabling and incurable lung disease, what would you have done?

I wouldn't have used it.

And if this bag said something about delayed lung injury, if that -- would that have meant anything to you at that time?

A No. sir.

And if you knew that the delayed lung injury could cause you to be disabled or eventually die, what would you have done?

MS. SKIPPER: Object to the form.

I wouldn't have used it.

BY MR. GIVENS:

Now, was anything worn over your face while you were around the sandblasting?

Α Yes, sir.

Did the mask you used at this time, would it cup up or lay flat?

Α It'd cup up.

Okay. Can you tell the jury what you wore?

It was a cup-up mask. It had like a silver thing on the top, and it had two straps on it. It had AO on the bottom of it.

Q Okay. And so that's -- how do you know it was an AO mask?

It had it printed on it.

Okay. And I'm going to hand you what I want marked as Plaintiff's Exhibit 4. This will be like the other exhibit

Was this the dust mask that you wore while y'all were sandblasting at that site?

Yes, sir.

MR. EDWARDS: John, is that two pages or --MR. GIVENS: Yeah. It's two pages. It will be one exhibit.

(Exhibit 4 marked)

BY MR. GIVENS:

And with this dust mask, did you ever have the opportunity to see or read any of the warnings or instructions that came with these masks?

Yes, sir.

And did you wear these masks because it was your belief that they were protecting you from the dust?

Q Now, when you took these masks off -- or would you take these masks off on occasion?

Q And when you took them off, what would you see?

Well, there's -- dust come out of them. You had, you know, sand on your face and, you know, it looked like a dark, dark spot inside of it.

Q So are you saying you'd have sand underneath --

> A Yes, sir,

-- where the mask was?

A Yes, sir.

Now, if these masks had contained or included an instructional warning that said, "Do not use this product in or around sandblasting because it did not provide adequate protection," what would you

11 12 13

15 16 17

14

19 20 21

18

22 23

12

13

13 14 15

16

21 22 23

24

25

have done? MR. IRELAND: Object to the foundation or the form.

Α I wouldn't have used it. BY MR. GIVENS:

Did the warnings or instructions that you saw with these masks, did it ever tell you not to use them around sandblasting?

Α No. sir.

If the mask contained or included a warning that said, "Do not use this product in or around sandblasting because it did not provide adequate protection," what would you have done?

MR. IRELAND: Object to the foundation.

We wouldn't have used it.

MR. GIVENS: Hold on. Let me stop. I just established the foundation. Why is your objection still there?

MR. IRELAND: My objection is you haven't established the time frame, so it's been three times. I don't know what the warning said. I'm objecting to the foundation you used. BY MR. GIVENS:

Do you recall what year you did the sandblasting job in? Was it the first half you worked Filed 07/06/10 Page 6 of 48

at Gordon Myrick or the second half of the time frame you worked there?

Say the question again,

Do you recall about what year you performed this sandblasting job at Gordon Myrick in? Was it in the first half of the time you worked there?

MR. IRELAND: Object to the form.

It was the second half.

BY MR. GIVENS:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Q Okay. What else did you do while working at Gordon Myrick?

Well, we put up buildings, cleaned up. You know, it's a lot of the stuff we did in construction.

Did y'all do any concrete work?

Yes, sir.

And how often would you do concrete work at Q Gordon Myrick?

Sometimes two or three days.

Q Out of a week?

A week -- out of a week, we'd usually do it.

So is it your testimony, on average, y'all would do concrete work anywhere from two to three times a week?

> A Yes, sir.

And that was over the whole time you worked

there?

Α Yes, sir.

O And tell the jury one type of dust mask you wore while performing concrete work.

It's on AO.

Q AO. And is it the same dust mask that we talked about here in Exhibit 42

Yes, sir.

And did you have occasion to wear that mask -- did you wear that mask on occasion from 1986 to 1991?

Q And how often do you think you would wear that mask in comparison to other dust masks?

Most of the time.

Okay. And now, we established earlier that you read the instructions or warnings that came with this mask. If this mask had contained or included an instructional warning that said, "Do not use this product in or around jackhammering because it did not provide adequate protection," what would you have done?

MR. IRELAND: Object to the form.

I wouldn't have used it.

BY MR. GIVENS:

And did the warnings or instructions that came with this product state not to use around -- in or around concrete work?

> Α No. sir.

And if the instructional warning on these masks said not to use in or around concrete work, what would you have done?

I wouldn't have used it.

I'm not sure; I may have already asked you this, John, but I'm going to ask you again to make sure the record's clear.

Has anybody ever told you that the dust from breaking up concrete could expose you to respirable silica?

Α No, sir.

All right. John, we touched on this briefly, but can you remind the jury of when you first started having breathing problems?

> Α Ninety -- '95, 1995.

And, John, have you been declared disabled? Q

Α

And do you know approximately when you were Q declared disabled?

Α In 2000.

Okay. And were you declared disabled due to

Case 2:10-cv-00159-KS-MTP Document 8-17 1 your lungs? 2 Α Yes, sir. 3 Q Would it be your preference to still be 4 working today? 5 Α Yes, sir. 6 Q But you're unable to. Right? 7 Yes, sir. Α 8 Now, the jury will notice from this video 9 that you've got some tubes going into your nose and 10 around your ears. Can you tell the jury what that is? 11 I've got oxygen to help me. 12 Q To help you what? 13 Α To help me breathe. 14 Q And how often do you have to use this 15 oxygen? 16 I'm on it 24/7. Α 17 Can you tell the jury some of the things 18 that your lung injuries have caused you not to be able 19 to do anymore? 20 MS. SKIPPER: Object to the form. 21 I just can't do like I used to do before I 22 got sick. I used to do everything. You know, I 23 hardly ever do anything right now, but  $\mathbf{I}-\mathbf{I}$  guess  $\mathbf{I}$ 24 do a lot of stuff in the community trying to help my

Filed 07/06/10 Page 7 of 48

BY MR. GIVENS:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Yeah. Do you have -- do you ever have any recurring problems --

Yes, sir.

-- from your lung injuries? Q

Α Yes, sir.

Can you tell the jury about some of those? MS. SKIPPER: Object to the form.

It -- it make me -- make it hard to breathe during the summertime. The wintertime is -- it's pretty good because it's cooler. And it's pretty -you know, when it's hot, it's -- it's kind of hard for me

BY MR. GIVENS:

Yeah. How often do you go see a doctor?

I see my lung specialist twice a year, unless when I get sick, I, you know, maybe see him in between.

Q Okay. And how often do you go into the hospital?

Average, about once a year.

Q And how long are you usually in the hospital for when you do go?

Between four and five days. Α

Q And why is it that you have to go to the

hospital?

I have -- my lungs, they have a lot of spermine inside of it, and they usually keep me there to get rid of all of it before they let me come home.

Are you saying that your lungs flare up? Is that what you're saying?

Α Yes, sir.

grandkids at sports.

Q And what -- how does that affect you?

It affects me a lot. Α

Does it make it very difficult to breathe? Q

Α Yes, sir.

Q Does your -- do your lung injuries cause you any physical pain?

Yes, sir.

MS. SKIPPER: Object to the form. BY MR. GIVENS:

Can you describe what -- the physical pain you associate with your lung injuries?

MS. SKIPPER: Object to the form.

Well, for one thing, it's -- you know, I just -- just can't do like I used to. You know, get tired quicker. And over the years, it — it's starting -- starting to get worse and worser (sic). BY MR. GIVENS:

Does it give you any problems sleeping at

night?

Well, I - no, I sleep. When I have to get to the doctor, he gives me some pills I take every night, you know, just to sleep because it was hard sleeping.

And why was it hard sleeping?

Α I just couldn't fall asleep because it was hurting so bad.

And, John, you testified earlier you've got 16 grandchildren. Does the fact that you have an incurable lung disease, does that cause you any stress or anxiety over not being able to see those -- your grandchildren grow up?

Yes, sir.

MS. SKIPPER: Object to the form. MR. IRELAND: Same objection.

BY MR. GIVENS:

And does that -- now, John, we -- I met with you -- how long ago was it that I met with you for the first time?

About a week ago.

About a week ago.

And did I -- what did I bring with me?

Where did we meet at?

We met at the Law Library.

27

1

2

3

25

9 10 11

12 13 14

15 16 17

18 19 20

21 22

23

24

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

And what did I bring with me to the Law Library for you to look at?

> A A bunch of binders.

And how long did we sit there and you go Q through those binders?

About two and a half hours.

And what did you do when you went through Q those binders?

I went through it and looked at a lot of pages and -- and some of the stuff that I did use.

And these pictures that we put here today, are these the products that you picked out on your own?

Α Yes, sir.

And, John, you were previously deposed in your other case that was dismissed, and that was -you were deposed for approximately two days back in 2004. Is that correct?

Α Yes, sir.

And now, during that deposition, you were asked a lot of questions, were you not?

Α Yes, sir.

And were you nervous during that deposition? MS. SKIPPER: Object to the form.

A lot nervous.

BY MR.	GIVENS:
--------	---------

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

And are you nervous today a little bit? Q

Α I'm nervous today.

You were asked, you know, some questions on occasions throughout that deposition at various times whether or not you read any of the warnings or instructions during that deposition. And at that time, you either said "I don't remember" or "no." And today, you said you did read some warnings and instructions.

Yes, sir.

Can you tell the jury why back in 2004 you Q said you didn't?

MS. SKIPPER: Object to the form.

I didn't understand your question. BY MR. GIVENS:

And were you confused at times during that deposition?

When you were doing -- when you're doing concrete work, John, is that a -- does that create a lot of dust when you're doing the breaking up and the chipping of concrete?

> It's a lot of dust. MR. GIVENS: That's all the questions I

have. The rest of y'all are welcome to stay, but you're free to go, too. I'm not going to let you ask any questions, Mark, Chaney, Hall and Tom. MS. SKIPPER: You're not going to let them ask any questions? MR. GIVENS: Nope. MS. SKIPPER: Are they dismissed from the lawsuit? MR. GIVENS: They will be.

MR. EDWARDS: With the representation from Mr. Givens that Empire will be dismissed, Empire will

not be asking any questions.

MR. ROACH: Hall Roach for Kelco and Schmidt, we have that same agreement?

MR. GIVENS: Yeah.

MR. ROACH: Okay. MR. NICHOLS: Chaney Nichols on behalf of

Pulmosan. Pulmosan has the same agreement?

MR. GIVENS: Yeah. Let's take a short

recess.

THE VIDEOGRAPHER: We're going off the record. The time now is 9:49.

(Off record)

THE VIDEOGRAPHER: We are back on the record. The time now is 10:07 a.m.

BY MR. GIVENS:

Mr. McGillberry, I just had a couple more questions for you.

What activities, if any, do you do with your grandchildren?

I -- since I don't work, I just help coach them playing sports, football and basketball.

And -- and why do you do this?

You know, I guess it eases my mind.

And what does it ease your mind from?

Well, I know what I got, ain't no cure for it, and -- and it's always on my mind.

MR. GIVENS: Okay. That's all the questions I have at this time.

#### EXAMINATION

BY MR. IRELAND:

Q Mr. McGillberry, my name's Robert Ireland.

Α

And I've got some questions for you here Q today.

If I'm looking at Exhibit 1 correctly, you've identified three employers over the course of your career where you're claiming, you know, some exposure in this case. That's right, isn't it?

MR. GIVENS: If you don't understand the

1

2

7 8 9

11 12 13

10

14 15 16

> 17 18 19

20

21 22

23 24

Case 2:10-cv-00159-KS-MTP Document 8-17

question, you can ask him to rephrase it.

A Yeah. Re-- repeat the question.
BY MR. IRELAND:

Q Sure.

A I thought you were just ask -- you know, talking to me --

Q Sure.

A -- not asking a question.

Q Remind me -- remind me how you came about putting together Exhibit 1. And I don't want to be into any attorney-client privilege. I'm just trying to figure out exactly what Exhibit 1 is.

MR. GIVENS: I -- I'm going to object to that question. He -- well, I'll just clarify for the record, he didn't put together Exhibit 1. Exhibit 1 was put together from his previous testimony and my review of the records. And I verified with him if those were the correct work sites and dates. And based on his previous deposition testimony, those are the only work sites that he claimed exposure to respirable silica.

MR. IRELAND: Okay. So Exhibit 1 -- and I'm -- I'm fine with you -- just so that we understand Exhibit 1. Exhibit 1 is the only three places where he's claiming being exposed to respirable silica?

Filed 07/06/10 Page 9 of 48

MR. GIVENS:—That's what -- we've established that. Yes, it is.

BY MR. IRELAND:

Q All right. Now, during the times that you worked with Tom Pittman, do I understand correctly that the only time that you did any sandblasting or were around any sandblasting was during a one-and-a-half-day period?

A Yes, sir.

Q Okay. What were your primary duties at Tom Pittman?

A Well, it was a small construction company, you know. Do everything, you know. If -- whatever we was doing. And -- and my job was that, you know.

Q Where did you learn how to -- to use the jackhammer? Was that at Tom Pittman?

A Yes, sir. We chipped out concrete.

Q Did you actually use the sandblasting machine during the one and a half -- you know, one-and-a-half-day period of time when you're claiming this exposure?

A I was attending the pot.

Q I'm sorry. Say that again.

A You asked me what I -- I did?

Q Did you actually do the sandblasting

yourself?

A No. sir.

Q Okay. You were around it?

A Yes, sir.

Q Okay. And what was your job during that one-and-a-half-day period of time?

MR. GIVENS: Objection. Asked and answered.

A To put the sand in the pot.

BY MR. IRELAND:

Q Okay. And during that one-and-a-half-day period of time, were you sandblasting all day long or was that just a small portion of -- of that job?

A No. It was just that day and a half right there on that job, you know, did the work for them.

Q Yes, sir. And I understand. I'm -- I'm just trying to figure out whether that day and a half you sandblasted for 30 minutes or you sandblasted for several hours. I'm -- I'm just trying to get a sense.

A Several hours

 $\ensuremath{\mathsf{Q}}$   $\ensuremath{\mathsf{Okay}}.$  And -- and your job was to fill the pot?

A Yes, sir.

Q Explain to me what "fill the pot" means.

A Get the bag, filling the pot up, keeping the sand in it.

Q Okay. How many times did you have to fill the pot up?

A A bunch of times.

 ${\bf Q}$  . All right. Now, what kind of -- what kind of -- what size bags were you pouring into the -- the pot?

A I don't know if it was 75 pounds -- I mean, 70 pounds or something like that.

Q Okay. And would you say that you loaded more or less than five bags in the pot during that time?

A It was more.

Q Was it more or less than ten?

A Less than ten.

Q Okay. And your job was — was just pouring the sand in?

A Yes, sir.

Q All right. What were you doing during that one-and-a-half-day period other than pouring sand into the -- the pot?

A We was forming up other stuff on the job from where we was working at.

Q Help me understand what this — what this job was. Was it a residence?

A No, sir. It was in the oil field.

11 12

9 10

25

15

16

Now, I'm talking about Tom Pittman. And I — and I promise you, I'm not trying to confuse you.

A Yes, sir.

I thought that that was when you did the Q sandblasting on some steps.

It was -- it was steps. Steps that goes up that big tank,

Okay. Fair enough.

Other than sandblasting the steps, help me understand. I -- I just don't understand what you do on a job at the oil fields working for Tom Pittman, other than the sandblasting that you've talked about.

Well, Tom Pittman was a contractor.

Q Yes, sir.

And I guess they just got him to do the job because he -- he did a lot of -- he did a lot of work up there.

Q Yes, sir. And I'm just trying to understand. You were there for a day and a half, and you loaded the pot less than -- or around about ten times. I'm just trying to figure out what you did during that one-and-a-half-day period other than loading the pot. That's all.

Okay. Yeah. We -- we -- we formed up some steps and -- and were ready to pour some concrete on

Filed 07/06/10 Page 10 of 48

them.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Okay. Were those steps -- where were those steps in relation to the -- the sandblasting that was going on, the ones that you were forming up that you said?

Now --

Yeah. And, yes, sir. I -- and that's fine. I'm -- I'm just trying to get an understanding. And Ipromise you you're not the first person that has been confused by a question of mine.

You said that -- that other than sandblasting some steps --

Yes, sir.

-- you formed the concrete and formed some -- some other steps?

Yes, sir. We -- well, we did -- getting the pour and stuff ready for the concrete. You know, you've got to build the -- the wall where the concrete is going to go around.

Were you anywhere near the sandblasting when Q you were doing that activity?

Well, after we got so far with it, he had us do something else.

Q Yes, sir.

Α And we went back and did it -- did it again.

So most of your work over that one-and-a-half-day period -- most of the time that you spent over --

Yes, sir.

-- that one-and-a-half-day period wasn't loading the pots, it was doing something else. Right?

Yes, sir.

And what you were doing wasn't necessarily right close to where you felt the sandblasting was taking place?

It was -- it was pretty close to it.

Okay. Well, help me understand what the work site looked like. I - I haven't been on that oil field and I probably should, but help me understand what it looked like, please, sir.

Well, it was just -- it's a big tank that had a bunch of steps on it. And I think the reason we did sandblast the steps of it, it had oil on it, you know, stuck on it.

Rolling up, I drove by some tanks that I think look like the ones you're describing, but don't let me put words in your mouth. Just let me -- help me understand.

Is this one of those real big tanks where the steps sort of go all the way up and around the

sides until you get to the top?

Yes, sir. A

How many people can go up those steps at a Q time?

Well, it's -- it's either one way up or one way down. And, you know, two can't -- two can't go up it. I mean, one can't go up and another can't come down,

Q All right.

Α It's going to be, you know...

And -- and you were loading a pot. Where was the pot? Was it on the ground?

Α It was on the ground.

All right. And so there was a hose that went from the pot to wherever the -- the fellow that was doing the sandblasting was doing it?

Yes, sir.

And it was a one-way street, so to speak, up the steps to where the sandblasting was?

Yes, sir, because nobody couldn't go up it while we're working.

How tall was the -- the tank? Q

I would say ~~

Q Three stories or more?

Α No. About 60 foot.

Case 2:10-cv-00159-KS-MTP
---------------------------

1 Okay. That's big. Did y'all -- did -- was 2 the -- did the sandblasting all the steps from -- from 3 the ground floor to, you know, 60 or so feet? 4 Yes, sir. 5 All right. The other steps that -- that 6 y'all were forming the concrete for, what was that 7 for -- or where were those in relation to the -- to 8 the steps that we just talked about? 9 Well, we formed up another -- another slab 10 where we were -- where they was going to set the tank 11 on. 12 Q And that was on the ground? 13 That was on the ground. 14 Who -- how many folks were on your crew that 15 were out there during this day-and-a-half period? 16 Me and him and his son. 17 Q It's Tom Pittman and Tom Pittman's son 18 around you? 19 Α Yes, sir. 20 Q Did -- did the oil field have a name —  ${\tt I}$ 21 mean, which one was it? 22 I don't -- I don't remember. 23 Q Okay. Fair enough. Was it in Laurel? 24

Filed 07/06/10 Page 11 of 48

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

16

17

18

19

20

21

22

23

24

25

one-and-a-half-day period -- just so I understand, you said here today you didn't -- you didn't wear a dust mask at Tom Pittman, Right?

MR. GIVENS: Objection. That's not what he said.

MR. IRELAND: Well, I'm -- I'm -- we can go off the record.

MR. GIVENS: You can just ask him.

MR. IRELAND: I need to figure out what it was.

MR. GIVENS: I mean, you can ask him whether or not he wore one. Don't presume that he didn't.

MR. IRELAND: Well, I thought he didn't. I'm -- I promise you, I'm not trying to confuse anything. I -- I didn't think that I wrote down that he did.

MR. GIVENS: I just prefer, instead of asking him questions where you presume, I mean, just because I've been asking him about that, just ask him whether or not he wore a dust mask.

MR. IRELAND: Okay.

MR. GIVENS: I mean, that's all I'm saying. I don't necessarily have a problem with the way you're doing it. I just thought that was a bad question.

MR. IRELAND: Fair enough.

#### BY MR. IRELAND: Did you wear a dust mask? Q Yes, sir. Okay. I -- I missed the description, and that's fair enough. Can you tell me what the dust

No. It was in Heidelberg.

Okay. And so -- so tell me, during that

mask looked like? It was flat when you -- when you -- when you lay it down. You know, it's - I mean, it's flat. It had the two straps on it.

Q What color was it?

Α White.

Α

25

What color were the straps? Q

Α Yellow.

Okay. Did you wear any -- during this one-and-a-half-day period that -- that was -- that was the one that you wore that day?

Yes, sir. A

I mean, that -- that time period? Yes, sir? Q

Α Yes, sir.

Okay. Thank you.

All right. You didn't wear one that was cupped, as opposed to being flat?

At that time, I just wore that one on that -- but we used both of them.

And so the mask, it -- it didn't have ridges

in the front of it. Is that --

Α What?

Do I understand that the flat mask that you're describing didn't have any ridges in the front of it?

At the time, that one didn't. It was just -- it was just a flat mask --

Okay. Q

Α -- on that site.

And tell me about -- I believe you said it was yellow straps. How many straps were there?

> Α Two.

Q And the straps weren't blue or white. They were yellow?

Α Yellow.

What did it look like when you had it on? I mean, I know you weren't -- weren't looking in the mirror out there, but was the mask horizontal or vertical or what -- what did it ---

Well, it -- it ran this way (indicating) because it -- it -- it was like that. It covered your mouth and the nose.

And you were indicating with your hands horizontal when you had it on?

Α Yes, sir.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Okay. You don't remember wearing a 3M mask out there?

Not on that job site.

MR. GIVENS: Are you talking about the day and a half, Robert?

> MR. IRELAND: Yes. Thank you, John. MR. GIVENS: I'm just -- okay. Just making

BY MR. IRELAND:

Q Now, it -- it sounds like you spent the majority of your time working up the concrete and mixing the concrete and things of that nature. Did you -- did you wear the dust mask when you were mixing the concrete or just when you were dumping the sand in?

Well, the concrete is already mixed, you Α know.

Yes, sir. I understand. I'm just trying to figure out when during that one-and-a-half-day period you actually wore them. What tasks did you wear the

Okay. That -- that day and a half, I used the mask when we was -- we were pouring the sand, doing the sandblasting.

Okay. Didn't wear it when you were doing

Filed 07/06/10 Page 12 of 48

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

the other jobs off -- out there during that day and a half, just --

Not -- not during that job.

Okay. Who picked the mask that you used, if you -- if you remember? The -- and this is, again, during that day-and-a-half period at Tom Pittman.

I don't know who picked the mask.

Well -- and I'm not trying to be tricky. I mean, did you get it out of the truck or -- I mean, I'm just trying to figure out how you came about having a mask to wear that day.

Well, we got stuff out of the toolbox, you know, like a game box. You get what you need when you get on the job, once we get started.

Was it in the back of a truck? I -- I promise you, I'm not trying to be confusing. I'm just trying to figure out how it worked.

It was in a box.

Q Okay. The mask was in a box?

Α Yes, sir.

Q All right. And you went to get the mask. It wasn't given to you. Is that what I understand?

No, sir, it wasn't. I went and got it.

Okay. What did the packaging look like? You know, you just said the box. What did -- what did

the box look like, packaging? That's all I'm talking about.

The box that the mask came in?

Yes, sir. Yes, sir.

MR. GIVENS: It's okay to say you don't -if you don't remember, it's okay to answer.

I don't remember.

BY MR. IRELAND:

You remember that it was in a box, but you don't remember what the box looked like? I -- I think that that's what Johnny was -- was saying for you there.

Okay. It's - it's in a box. And inside that box, it was in a bag.

Okay.

MR. GIVENS: I think that the confusion is he said a toolbox, is what he first said. I think he's thinking that when you say "box," he's thinking a toolbox.

MR. IRELAND: Okay.

MR. GIVENS: So you may want to clear that

up.

MR. IRELAND: Sure. I'm -- I'm happy to. BY MR. IRELAND:

I'm trying to figure out whether this -- .

this mask was individually packaged in something when you went to get it out of wherever it was that you got it from. It sounds like maybe it was in a toolbox.

Well, I got it out the toolbox and it was in the bag with the rest of them. I just got me one of them.

Q Individually wrapped or -- or together?

They're all together.

Q So several masks in one --

Α Yes, sir.

What was the color of the packaging?

I'm not for sure what color the box was. Are you -- you talking about the -- what color the dust mask is or what? What you mean?

I know it was a long time ago, but I'm just -- well, we'll just ask you to help us.

MR. GIVENS: The package you got the mask out of, what color -- he's asking you to describe that package, is what he's asking you to describe.

MR. IRELAND: Thank you, Johnny.

I am not for sure what color it was. BY MR. IRELAND:

> Q Do you remember what shape it was?

It was a long box.

And I'll just ask again since my notes

aren't terribly clear on it. Was there any writing on the box?

Yeah, there was writing on the box, but I didn't -- I didn't pay no attention to the box. I mean --

MR. GIVENS: Actually, he's already testified that there was writing on the box, and he read any warnings or instructions on it.

MR. IRELAND: Johnny, I -- I'm --

MS. SKIPPER: Object to the testifying for the witness.

MR. IRELAND: Yeah. I'm objecting to the testifying, too. BY MR. IRELAND:

Q And help me understand. Now, you answered that question and I just didn't hear it over all the talking. All three of us were talking, and I apologize for that.

There was writing on the box?

- Yes, sir.
- Did it have a product name on it, as best Q you recall?
  - Yes, sir.
- Okay. What did that -- what did that look Q like? What did that say?

## Filed 07/06/10 Page 13 of 48

- A big 'ol A and an O on it. Α
- Q And you don't recall the -- the color of it?
- Α No. sir.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- Okay. Were there any instructions or Q warnings on the box?
  - Α Yes. sir.
- Okay. But -- but as you sit here today, you Q don't recall exactly what it said?
  - Yes, sir.
- Now, in response to Mr. Givens' questions, you said -- you testified as to some things the warnings didn't include. And I'm just asking, do you have any idea what the warnings and instructions did say? And "I don't know," is a fine answer if you don't know, but I'm just trying to figure out what you do remember.
- You want what -- what was described on the box, whether it said warning, this is --
- Whatever you remember with respect to warnings and instructions that were on the box.
- Well, I remember on the top of it, it had A -- AO on the top of it. It had some more writing on it, but I'm not for sure what all it said.
- Okay. Now, when you weren't wearing it during that day and a half, what did you do with it,

put it in your pocket?

- Α Yes, sir.
- Y'all went home and spent the night and came back the second day, I mean, obviously?
- Did you take it home with you and then bring it back?
  - Well, I got a new one the next day.
- So all -- everything that we've talked about with respect to getting the mask the first day, you did it again the second day?
  - Do you still have any of those masks, by
- Either that one or any of the ones that you -- other ones you've talked about today?
- Okay. And with respect to this one, you
  - No, sir. The company --

- Q Did you purchase any of your own ones, just to make it --
  - Α I didn't. The company did all of that.
- Did you ever see any of the marketing materials? And I'm not even sure I know what that means. Maybe a brochure, flyers?
  - No, sir.
- Okay. The straps, did you have to tie them on the back of your head?
- No, sir. They -- they were like a -- like a big rubber band.
- Okay. I see you wear a -- a mustache today. Did you have any facial hair back then?
  - You said -- repeat.
- Did you have any facial hair in the '70s? I see you -- you wear a mustache today, and it looks good.
- No, sir, not -- not -- it wasn't this thick, but I had some. Something like yours, you know. It's a -- it's a -- you know, it looks like you got something right there. It wasn't, you know, nothing big.
- Q Okay, Fair enough. It wasn't as substantial as the one you have now?
  - No, sir, it wasn't.

A Yes, sir. Yes, sir. Q Α Α Yes, sir. Q Okay. Α Yes, sir. Q Thank you. Α Okay. Q chance, that --Α No, sir. No, sir. 24 didn't -- you didn't purchase it. Right? 25

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

16

17

23

24

25

1

2

3

4

16

17

11

23 24 25

Thank you. Did you ever -- well, did you do anything to make sure the mask fit before you put it on? Did you -- was there anything to adjust or anything?

No, sir. That thing, one size fit all.

Okay. All right. We -- we'll move to -- to Daniel Construction. That -- is that -- that's the North Carolina position. Right?

Yes, sir.

Okay. And were you in North Carolina the whole time between -- what I'm looking at is September 12, 1979, to March 1981?

Yes, sir,

Q I'll tell you, I haven't jackhammered very much, but you jackhammer the ground or what's below it. Right?

Α Yes, sir.

And what -- and you were -- you were building buildings out there?

Building a power plant.

Fair -- fair enough. What was the -- what was the floor or what have you? What -- what was that made out of?

Concrete.

Q Okay. Was there any finishing on it or anything, or it was just -- was it just regular?

It was -- it was finished.

All right. What -- what do you mean by "finished"?

It's -- it just -- what I mean by finished, it -- it's finished. You're through with that -- that spot there. Go to the next -- next spot. It's ready.

When I think of jackhammering, I think of tearing something down, not building something. And I may have put words in your mouth, but were y'all building stuff and tearing stuff down out there at Daniel Construction?

Well, when you're -- when you're pouring concrete, if -- if it messed up or honeycombed, if you -- if you see the rocks in it, they make you tear it up and repatch it, put -- put -- put it back to

Do you start from scratch or do you just get the -- the imperfections, so to speak?

No, you don't start back from scratch. You just get some mud and -- and finish it up. But if it's big, you have to pour concrete on it.

What -- what portion of the time were you jackhammering versus other activities out there at the job?

Most of the time, I was, you know, jackhammering, cleaning up, stuff like that. Like I said, when I was over there -- when I started, I was a laborer and then I went to a cement finisher.

What was the difference between the job duties of a laborer and a cement finisher?

A dirt job.

Well, I -- I understand. I'm just trying to figure out what you did differently as a laborer than you did as a cement finisher.

Labor, you clean up, chip. Concrete, you finish concrete.

Q Okay.

That's the difference. Α

Tell me what finishing concrete is. I-Iwish I had done it growing up. I don't have a clue what you're talking about. I'm just trying to understand what -- what finishing concrete is.

Finishing concrete is when you -- when you got the slab ready, 100 percent ready. That's -that's finishing concrete.

What are the last steps of -- of finishing? I -- I'm just -- I understand the pouring the slab part. I don't understand what else is involved.

Well, you have to have -- take the machine

and dry the -- and dry the -- that mud. Make sure there's no rocks showing.

Okay. But that's not jackhammering?

Α No. sir.

All right. Did you mix the something -- the concrete before it got poured?

If it's a small pour, we can just patch it. They have a guy to mix it, and we just gets it and finish it -- finish it up.

What's in the mix, just a water and concrete mix?

Α Sand and concrete.

Q And water?

Yean.

But I -- as to the big pours, what -- what's in the concrete that y'all didn't mix the --

I don't -- I don't -- I don't know what they put in it when they -- when they mix it like that. I don't know.

Okay. Y'all got the concrete from somewhere else?

We did. We got it from a plant on shift -Α on site.

Okay. Now, the jackhammering that you've talked about, was that - did you do that inside or

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

9 10

17

outside?

Α Outside and inside.

Q All right. Now, I read your earlier deposition and I -- what I understood -- and I may be -- is you did some jackhammering outside. But when you jackhammered inside, it was -- it was actually outside, but it was under a tarp. And is that --

No. It's just like in a room.

Okay. How dusty would it get when you were Q chipping outside?

On the inside, you know, all the dust is on you when you're chipping. On the outside, it gets -you'll get some of it on you. But, you know, you get that wind on the outside. But when you're in the inside, you don't get no wind.

Did -- what did your employers tell you as to safety precautions when, you know, doing the work? And I'm talking specifically about wearing dust masks and other protective activities like that.

They didn't -- they didn't ever explain to us nothing about the dust mask.

Q Okay.

You just had to use them.

How did you come to -- how did you come to use them, I guess, out -- out at Daniel Construction?

If you didn't use a dust mask when you're working, you would get fired.

Okay. So you were going to wear them. It's because you didn't want to get fired?

Uh-huh.

What -- what protective equipment -- and I'm talking about dust masks. What -- tell me what it looked like, the ones that you used at Daniel Construction.

Α It was a -- like a dome. It had the ridges on it, had the straps on it and had the little silver piece in the front of it.

Did it look anything like the one you used at Tom Pittman?

We used both of them on the -- on the oil out there at Daniel.

You're saying at Daniel, you used one similar to the one you used at Tom Pittman and you used the one that was cupped?

I have used both of them out there.

All right. Now, with respect to the one that was flat -- well, let me just ask this: How -what percentage of the time did you wear the flat one versus the cupped one?

Fifty percent of the time.

Q And -- and with respect to the one that was cupped, you said there were two straps?

Yes, sir.

Q What - and what color were the straps there?

Some of them were two straps, some of them were one strap, you know, but it's just about the color of, you know, like a rubber band.

Well, some of the ones that you wore that were cupped had one strap and some were two straps?

Α

What colors were the ones that were one strapped -- I mean, excuse me. What color were the straps on the cupped mask that had one strap? What color was -- was the strap?

What color is the -- the average rubber band? It was that color. I'm not -- it wasn't blue. It wasn't red. It was -- I can't --

You can't say for sure?

Well, it -- it was -- 90 percent of the time, they were just about the same color.

But do you -- do you know the color of the straps on the model that had two straps?

Α It was yellow.

Okay. What did the -- when you went to go get, let's say, the cupped mask that had two straps,

1 You split it evenly, wore -- wore one half 1 2 the time, the other one half the time? 2 3 Α Say that again, now. 3 4 You wore one half the time and the other one Q 4 5 half the time? 5 6 Yes, sir. You know, it's like this 6 7 (indicating). And whatever -- whatever's there, you 7 8 know. It might be one day you've got this, and the 8 9 next day you might have that. 9 10 The one that was cupped, what -- tell me 10 11 what the ridges on the front looked like that I -- I 11 12 saw you indicating. 12 13 It just had like little humps on it. 13 14 Okay. Do they go across or up and down Q 14 15 or --15 16 They went across. Α 16 Was it in any sort of a pattern like a 17 18 diamond or circle or square or anything? 18 19 Yeah, because like in the middle, it's 19 longer than it is at the bottom. And as it go down, 20 20 21 it gets smaller. Same way as it go up, it gets 21 22 smaller. 22 23 Q So sort of like a diamond shape? 23 24 Α Yes, sir. 24 25 25

8

9

23

24

25

when you went to go get that one at the beginning of the day or whenever you got it, what did the packaging look like for that particular one, if you can remember?

When they kept it in the game box, all they did is took it out of the box and set the whole bag in -- in the game box, and I went -- went and got one out of the box. I don't know what the -- what the box looked like.

Fair enough. I mean, were they -- were they individually packaged or were they all together?

- All together.
- And don't know what the -- what the all together package was?
  - No, sir, I don't.
- Any writing on the -- the package that we've talked about?

MR. GIVENS: Now, you're -- you're talking about the cupped mask at this time?

MR. IRELAND: I'm talking about the cupped mask that had the two straps.

You said what -- what -- what color writing was on it or. I mean, which name that was on it? BY MR. IRELAND:

I'm asking -- you've talked about three

## Filed 07/06/10 Page 16 of 48

different kinds of -- of masks. And with respect to each one, I'm going to ask you what the packaging looked like and what writing was on it that you can remember and what warnings were on it that you can remember and what instructions were on it that you can remember. And this is with respect to the cupped masks that had the two straps, you said they came all together in one package. I'm trying to ask you first -

Α Yes, sir.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- Q -- what that package looked like.
- The one I put on my -- my face or all of them, what -- what come in the box? I don't understand.
  - Q Yeah. I -- listen, I -- I apologize.

Do you remember seeing any instructions or warnings on — on any of the materials, the packaging materials?

Yeah. It was -- it was -- it was AO on the -- on the bottom of it or top of it, however. And it had some -- some writing on it.

Okay. Now, is that your description with respect to all of the packaging that you used?

- Okay. The mask that had two straps -- the Q

cupped mask that had two straps, the cupped mask that had one strap, and this flat mask that you're talking about?

MR. GIVENS: I'll stipulate for the record that in the discovery responses and I'll stipulate here that he used 3M masks on occasion. If you want to ask him if he used 3M masks, that's fine. He used 3M masks. We're not shying away. I didn't ask him about that, but we're not saying that the only mask he ever used there was an AO mask. I just want to make that clear. That -- that's not what we're alleging.

MR. IRELAND: I'm just trying to figure out what the packaging looked like. And we were struggling through it, so I was trying to ask a -- a broad question that he could answer. BY MR. IRELAND:

It sounds to me like you don't know exactly what all the packaging looked like for the masks that you used our there. Is that -- I mean, is that fair?

Well, if I'd have -- if I'd have seen the box, I'd know what I used. But some of the masks did have 3 -- 3M on it. And some of the masks had AO on it.

Okay. Now, before you -- you met with Mr. Givens -- and -- and I don't want to know anything

that y'all talked about because that's privileged. But before you met with him, did you know the model number of the masks that we've talked about here today?

- Α No. sir.
- Did you know who made the masks? Q
- And -- and when I say "who made," I'm talking about 3M, American Optical, the names of the folks that...

I figured what name was on the -- on -- on the thing, that was the name. I don't know. That's what I seen on the --

Q Yes, sir. I was just trying to figure out. before you met with Mr. Givens, did you know who made the masks that you used? That's all I'm trying -that's all my question is.

- Unh-unh.
- What did you do with the -- the cupped masks at the end of the day?
  - We threw them away.
- Do you know -- can you -- do you have any way of saying here today what percentage of the time you wore the cupped mask with the two straps versus the one with the one strap?

11 12 13

14 15 16

18 19 20

17

22

21

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

What specific time?

Q Yeah. Which one did you wear -- or how -and how often did you wear each one? That's all I'm -- that's all I'm asking, if you know.

Just like I stated a while ago, whatever was in that box that day, that's what you used. You come back the next day, and they're all gone. It's a different brand in there. That's what you used.

Q Is it -- so it's hard to say how much you used any particular mask. You just used what they had, and we talked about some of the ones that you think you remember using out there, right, at Daniel Construction?

I used the AO most of the time. Α

Q What is that based on, sir?

A What percentage, you're talking about?

I'm just -- what -- we've been talking about it for a while. And I'm just trying to figure out why it is you think you wore AO most of the time.

It had it on it. THE WITNESS: I need to take a break MR. IRELAND: Sure, no problem. THE VIDEOGRAPHER: We're going off the record. The time now is 10:49 a.m. (Off record)

Filed 07/06/10 Page 17 of 48

THE VIDEOGRAPHER: We're back on the record The time now is 11:05 a.m. BY MR. IRELAND:

Mr. McGillberry, you didn't do any sandblasting at Daniel Construction. Correct?

No, no, sir.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Q And did anybody do any sandblasting out there? Were you ever around it, maybe is a better question?

> Α No, sir.

Q When you were jackhammering, did you wear any safety protection on your eyes?

Yes, sir. I had safety glasses.

Okay. Goggles or like the -- the hard Q plastic?

> Α The hard plastic glasses.

Okay. Did the employer provide those or did Q you bring those from your home?

They give you a pair -- pair when you -when they hire you.

Okay. What kind of cement -- when y'all mixed the cement at Daniel Construction -- Daniel Construction, do you know what kind of cement that was?

Α No, sir.

All right. I think you said you don't know what kind of cement or -- y'all used to -- to pour the --

cement

The -- well, the cement you're going to pour

Okay. The mask that you used out at Daniel Construction that you've talked about today, what -what was the material made out of, as best you recall?

was made out of.

Q Okay.

Α

Now, the -- the AO mask that was flat, I think you talked about, how were the straps attached

masks?

on.

Yes, sir. They were -- they were stapled

Q Okay. And you talked about -- well, let me ask you this: Which mask was it that you used when you said you could take it off and there was a dark spot on the inside?

A The cupped one.

I -- we've talked about two cupped ones, one with one strap and one with two straps. Do you -- do you remember which one?

> A No, sir.

Q Was it -- could it have been both?

It could have been.

Okay. What -- what color was the dark spot? Q

Α It's just a dark spot.

Where on the inside of the mask? Right --Q

Right dead in the center of it. Just like right here (indicating). Wherever I had my mouth at.

Q Did -- did it have a shape to it?

Α No. sir.

So as I appreciate it, the -- the -- the Q spot was coming right through the middle of the mask?

Yes, sir.

Q What -- you -- you testified a couple of

Α No, sir. I don't know what -- what kind of Q Did it come in a concrete truck or -- I mean, I -- do you know? They bring the cement in the -- in the truck, Q Okay. is in the truck.

I'm not for sure what kind of material it

It's white.

to the mask part? How were they affixed to the mask?

I guess it was — it was stapled to the side of it.

Okay. Same with the other two types of

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

17

18

times with respect to both the masks that Mr. Givens asked you about that you used at Daniel Construction and at Tom Pittman. And that if -- if the warnings had contained certain information, I think he used the term "delayed injury." And I wrote down you wouldn't have worn them or wouldn't have worn it.

Do you recall?

Well, I know that it --

MR. GIVENS: I think that, actually, I'm going to object to that as a mischaracterization of my question. You're talking about the bag of sand as opposed to the mask. If you want to rephrase it in regards to what I asked about the mask, then that's fine. But -- or you can have the court reporter read it back.

MR, IRELAND: Well, I'm not sure -- I'm -- I don't have the question right. I'm not sure how to ask it.

MR. GIVENS: You just asked whether or not I asked him about the mask saying anything about delayed lung injury. I never asked -- I didn't ask -- I didn't ask anything about a delayed lung injury in regards to the mask; that was in regards to the sand. BY MR. IRELAND:

Are there -- let's see. How do I ask this?

# Filed 07/06/10 Page 18 of 48

If there had been certain information on the -- the warnings and instructions provided with the dust masks -- I'm not sure how to ask it. I apologize.

Just generally speaking, I think you testified that if certain information had been provided with respect to the warnings on the dust mask, that you wouldn't have used the dust masks. Is that correct?

- You're kind of dragging your -- your answer. Α
- Q You're right.
- I can't --

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- Q You're right.
- Α You start and you stop, and you start and you stop. So could you repeat the question?
- Sure. I believe you testified earlier that if there had been certain information provided on the instructions and warnings for the dust masks that you wouldn't have used them. I believe that's right.
- Okay. If I knew it was going to make my health worse than what it is, I wouldn't have worn it.
- Okay. What would you have done? MR. GIVENS: He just answered your question. BY MR. IRELAND:
- If -- if presented with the information, you said you wouldn't have worn the masks. I'm asking you

what you would have done instead of wearing the dust mask.

I would have -- I would have asked the supervisor about it.

MR. GIVENS: I'm sorry, what did you say? THE WITNESS: I would have asked the foremon6 about this mask.

MR. GIVENS: Okay.

THE WITNESS: If it, you know, endangered my

life.

MR. GIVENS: Okay.

BY MR. IRELAND:

With respect to the work you did at Gordon Myrick, I understood you to say that you were exposed to respirable silica during the course of one job in a -- in a house. Is that right?

Yes, sir.

And that was the job where there was some sandblasting inside of some wood floors?

A Yes, sir.

Q What -- what was your role during that job?

I cleaned the pot. And I -- and I cleaned it up after we got through inside.

Okay. Were -- were you hanging around in the room while the sandblasting was going on, or were you doing something else while --

I was attending the pot to make sure it -it didn't run off.

Yes, sir. You weren't pouring the sand all day long, though, were you? I mean, I'm just trying to figure out what you were doing in between the times that -- when you were pouring the sand.

You're working with a sandblaster, your job is there until it's through. You can't leave and go somewhere else. You have to stay there and make sure you've got sand in it. And that's what my job was.

Q Yeah.

To keep -- keep the sand in it.

All right. You wouldn't clean in another Q room?

Α No, sir.

Okay. You're just standing there in the room with the -- with the sandblaster?

Just like I told you a while ago, my job was to tend the pot, keep it full. Then when we got through, we cleaned the sand out of the there, swept it out.

Q Yes, sir. Where was the sand kept? Where did you run back and forth from?

The sand, it was right next to the pot. So

1 we didn't have to go too far with it. Reach down and 1 2 pick up your bag, put it in the pot. 2 3 Okay. And which mask did you wear during 3 4 that four-to-five-day period? 4 5 The cupped one. 5 THE VIDEOGRAPHER: We have to do a tape 6 6 7 change. 7 8 MR. GIVENS: Thanks. 8 9 THE VIDEOGRAPHER: We're going off the 9 10 record. The time now is 11:16. 10 11 (Off record) 11 12 THE VIDEOGRAPHER: We're back on the record2 13 The time now is 11:17 13 14 BY MR. IRELAND: 14 15 How did you learn to -- or how did you come 15 16 about needing to -- let me strike that. 16 17 Why did you use the dust mask at this 17 18 particular job for Gordon Myrick? Did somebody tell 18 19 you to use it or... 19 20 Well, you just kind of have to wear it if 20 21 you're around a lot of dust or either you're going 21 22 to -- full of dust in your mouth. 22 23 Did -- did your employer -- did somebody 23 24 tell you to wear it? That's all -- that's all I'm 24 25 asking. 25

# Filed 07/06/10 Page 19 of 48

Α Yes, sir. Okay. Who was your supervisor on -- on that Q particular job? Α Red Hardy. O Red Hardy?

Α

Yes, sir.

Q And is he still living, to your knowledge?

Α No, sir. He died. He done passed.

How many folks were on that crew?

It's a bunch on that -- our crew. But on that -- the job where I did the sandblasting, it was me and another guy that was in the house.

Okay. Just the two of y'all. What was the other fellow's name?

Α Sam Love.

Q Sam Love. Is he still living, to your knowledge?

No, sir. Most everybody I worked with is Α dead.

Q Is -- was he from Ellisville like you?

Α No. sir.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Q Where was he from?

Α I think he was from up around Bay Springs, that area.

Q Okay. What other -- when -- when you --

when your company was asked to do the job at the house, the Gordon Myrick job at the house, what other activities were you asked to do? Were you just asked to do the sandblasting of the wood or was there something else?

At that time, it was just the sandblasting on that job.

Okay. You said you wore a -- a cupped mask. What color were the straps, or how many straps?

Some of them had two straps, some of them had one strap.

So during -- during that four-to-five-day period, you wore two different kinds of masks, two straps and one strap?

MR. GIVENS: Now, he's not talking about the whole thing. Are you listening to him? He's just talking about that four-to-five-day sandblasting period is what he's asking you about right now. He'll get to the rest of your stuff there. BY MR. IRELAND:

Q That's right. I was just --

Which number of straps did I wear that day, or are you saying --

> Yeah. I'll -- I'll repeat my question. The -- the exposure you've identified at

Gordon Myrick that was over a four-to-five-day period, which cupped mask did you wear during that four-to-five-day period?

The one that had the two straps on it, sir.

Q And what color were those straps?

They're about the color of your -- your paper right there (indicating) in front of you.

Okay. You're pointing out the yellow notebook paper?

> Α Something like that.

Q What about the ridges or -- let me ask, were there --

Α It was just this white mask.

Q Did they have any ridges in the front?

Α Yes, sir.

All right. Can you describe them, how -what they -- what -- the appearance of the ridges?

The ridges went straight across. Every one of them got shorter. The further it got down, they was smaller.

> Q Okay.

Α Like a diamond.

Okay. Did it have any writing on the cup?

Up under the bottom of it or the top of it, wherever it was, it had writing on it.

1 2 3

13 14 15

16 17 18

19 20 21

22 23

24

Okay. And have we talked about -- well, I'll just ask again. Tell me -- tell me again what writing was on the cup.

AO was on the cup.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

What were the -- what were the work conditions like in the rooms while you were doing the sandblasting or -- excuse me, let me -- let me just rephrase -- while you were tending the pot?

Well, it -- it -- when you opened the -- the sand, you know, usually it just -- it's just dusty when you open it up. And -- and all you do is pour it down. You know, and as you're pouring, you're just getting more and more dust out of it.

Well, during the actual sandblasting, what did the -- what did the work space look like, air quality wise, air condition?

Well, I was outside. I'm not for sure what the -- what the air quality was inside. I was on the

Okay. How did you go about getting the dust masks that you used at the Gordon Myrick job? Where were they -- were they, what kind of packaging, as best you can remember?

It was in a skinny package, and it was a bunch of dust masks in there. Just got me one, but

# Filed 07/06/10 Page 20 of 48

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

they. But they -- it had -- it had writing on the -on the bag

It was a bag or box? I apologize. I thought you said both.

It's in a bag. They probably come in a box, . but it was in a bag when I got mine.

Okay. And did you bring them to the work site or did --

No. They -- they furnish everything.

Okay. And who was -- I apologize. Would that have been your supervisor out there, Red Hardy?

Well, on that job, it was at the boss man's house. The house he built on his lake. It was just me and the sandblaster that was on that job.

I'm just trying to figure out where the dust mask was,

MR. GIVENS: Well, you were just asking about the supervisor. I mean, what are you -- ask one question at a time. I mean, you're changing your question.

#### BY MR. IRELAND:

Q I'm just trying to figure out where the dust masks were. You said they provided them. I asked you if your -- got them from your supervisor. I'm just trying to figure out how you went about --

They was in -- in the toolbox on the truck.

Q Okay. Fair enough.

Α Yes, sir.

Α

And was there any writing on the bag that had all the dust masks in it?

Yes, sir, there was writing on it.

Can you tell me anything about the writing Q that was on the bag?

No, sir.

Did you have any facial hair at that time? Did you have any facial hair at that time?

No, I didn't think I did. I didn't have none of this (indicating).

Same at -- at Daniel Construction? That was in early '80s, '79 to '81.

No.

Did you wear any other protective equipment while you were at this one particular job we've been talking about at Gordon Myrick?

Just some safety glasses.

What -- what were those for, or why did you Q wear those?

Make sure you didn't get sand in your eyes, anything -- you know, anything flying.

Who -- did you bring those from -- from your

house, or how -- how did you get the safety glasses?

I got them from the company.

Q Were they in the toolbox with the...

Yes, sir. That's where -- where all -- you know, you're keeping everything, or you would keep it in your shirt.

Did you ever have any safety meetings with your employer while — the entire time that you were at Gordon Myrick?

They required us to have a safety meeting Monday morning. Every morning before we started work, they -- they usually go through a safety meeting.

What -- what kinds of -- did y'all ever talk about using respiratory equipment?

Α No, sir.

What kind of -- just generally speaking, what did get discussed at a safety meeting on a Monday morning?

If we see anything that we -- you know, pertained to safety, we -- you know, you got to take care of it, you know, get it fixed, or you have to -some even have to walk over and if something's too low, you need to put some kind of string or that -that warning so they can know what is there. Rebar, you know, you tie some warning strings on it or you

18

19

12

13

20 21 22

Yes, sir. Who would lead those meetings? Q Α Sir2 Q Who would lead those meetings? Who -- who led the safety meeting?

Red Hardy did when I worked with Red Hardy. He was the only supervisor I worked with.

And when Red wasn't there, did y'all just discuss it amongst yourselves?

When Red wasn't there, we just usually go to work.

Okay. Fair enough. Q

It was very seldom he ain't there. Α

Did you get a new mask every day --Q

Α Yes, sir.

-- while at Gordon Myrick --Q

Q -- on -- on that one particular job? Let me -- let me finish my question.

Did you wear a new dust mask each day during that four-to-five-day job that we have been talking about when you were with Gordon Myrick?

Yes, sir.

Okay. Did you notice any spot on the inside of the dust mask during that particular job?

Α A bunch of times.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Q During this one job we've been talking about?

The three -- the three-to-four-day job. Α

Q Describe for me what -- what that looked like. The same as the other?

Yes, sir. It's, like I guess, a dark spot.

So the -- and so it's a dark spot right in the middle of the mask on the inside part?

Yeah. Right in the middle.

Q Right -- right over your mouth?

Over the mouth and nose.

Did you ever complain to -- to anybody during the time that you were at Gordon Myrick about, you know, your lungs or breathing problems or anything of that nature?

Α No. sir.

And you also talked about working concrete, I believe, when you were with Gordon Myrick?

Yes, sir. We poured concrete, too.

Okay. As I appreciate it -- and I'm not trying to put words in your mouth. Well, let me just ask.

Did you wear a dust mask while you were pouring concrete?

Yes, sir. If you didn't, sometimes the -the concrete will get in your mouth.

Okay. On what kind of jobs would you -would you pour concrete? What -- what would you do for Gordon Myrick that required you to pour concrete? What were y'all doing?

For instance, we did the library down at JC. We did the ladies dormitory down at JC. We did the -the recreation room down at JC when I worked with Gordon Myrick. We remodeled the -- the -- over here where the theater is at, we remodeled that. We -- we did a lot of -- a lot of stuff containing concrete. then we'd chip in it.

Your -- your remodeling work included lots of things, not just pouring concrete and finishing concrete. Correct? Can you answer out loud, please, sir? Just for the record, you have to answer "yes" or "no". That was -- I saw you shaking --

Okay. Now -- now, say the question again.

Sure. While you were remodeling and doing other work for Gordon Myrick, you did -- you had lots of other job duties other than just pouring concrete and finishing concrete?

Yes, sir.

Now, other than this job that we've talked

about at the house with the sandblasting of the wood and other than pouring concrete and doing concrete work, is there any other particular job where you wore a dust mask?

> Α Yes, sir.

Q Okay. Tell me about that.

Well, we poured a concrete wall. Once we take -- we formed up the concrete wall. We've got any problem in it, we got to take the chipping hammer and chip all the rocks out of it to be refixed again. And over here at the theater -- theater we did, they put in new windows. So we chipped out and get bigger windows in it, a lot of chipping.

Q What about other than concrete work and the sandblasting of the wood floors, was there anything else that you did that you wore a dust mask for?

Yeah. Cleaning up, sweeping.

What -- are you talking about concrete? Q

Well once they finish a room, it's completed, we have to go in there with a broom and sweep it up.

Now, you worked for Gordon Myrick for five years. Right?

Something like that.

During a given week, how many days a week

23 24

12

24

25

18

19

1

9 10 11

12

8

18 19 20

17

21 22 23

24 25

would you wear a -- a dust mask? Well, it's -- it's according on what you're doing that day -- that day. You could be cleaning up, you could be pouring concrete, or you could be chipping.

During the entire time that -- that you worked at Gordon Myrick, how many different kinds of dust masks did you use?

Several different kinds.

We've talked about this mask that you -- or this cupped mask that you've described as an American Optical or an AO mask. What -- what other dust masks did you use between '86 and '91 while working --

With Gordon Myrick?

Q I'm sorry?

Α Working with Gordon Myrick?

Q Yeah.

I believe the 3Ms. I know that we used the A 3Ms.

Q Describe what that mask looked like.

I was -- I think it was just about the same. Α

Any difference in the number of straps or Q the color of the straps?

I have used some dust masks that had one strap, some dust masks that had two straps.

Yes, sir. I'm -- and we're talking about during this five-year period that you were at Gordon Myrick?

Yes, sir.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Q You -- you used some with one and some with two? That's -- I'm just trying to clarify.

Used some of both.

Did you use anything other than the -- the cupped mask while you were at -- at Gordon Myrick?

No, sir.

And the -- the 3M mask that -- that you talked about, was there any writing on the -- the cup of the 3M mask?

Yes, sir. It had writing on it, too.

Can you tell me what you remember about the Q writing on that?

It had 3M on it. Α

The concrete work that you've described, was that inside work or outside work?

It was some of both, inside and outside.

O Did you do any jackhammering?

Α

On the work that you -- on the concrete work that you did outside while you were working for Gordon Myrick, what was the air condition like?

It was pretty fair.

How about when you did concrete work inside? Q

Inside? It's not -- nothing's stirring inside. It just seems like everything just -whatever you sweep up stays in the room with you.

Q Now, are there -- is there -- are there certain activities -- I mean, you've described lots of different things that you've done with respect to the concrete.

Α Yes, sir.

Α

Q Are there certain activities that are more dusty than others, so to speak?

Yeah. Certain things, there just -- it's Α more dust.

Describe -- describe those for me, please, sir. I know it's hard. I'm just trying to figure out the different kinds of work that you did and what -

Okay. If you're on the outside, it's not a lot of dust. If you're on the inside sweeping, it's -- it's dusty. If you're chipping, it's dusty.

Okay. And you wore a dust mask? Q

Α Yes, sir.

Do you wear it the entire time you were there, anytime you were doing the — the concrete work?

When I'm doing concrete work and -- and cleaning up, if I'm outside not doing no kind of -like that work with concrete, I - I don't wear it.

MR. IRELAND: We can take a short break. MR. GIVENS: Yeah.

THE VIDEOGRAPHER: Going off the record. The time now is 11:36.

(Off record)

THE VIDEOGRAPHER: We are back on the record. The time now is 12:47.

BY MR. IRELAND:

Mr. McGillberry, before we took lunch, I think that we were talking about your employment with Gordon Myrick. I'm just going to pick up and see if I can move fairly quickly through this.

At Gordon Myrick, y'all primarily built buildings, isn't that right?

Α Yes, sir.

Okay. And several of those buildings were . Q at Jones Community College?

Yes, sir.

Q The library and a couple other buildings out there?

Now, I understood from your first deposition Q

that when -- when you were -- part of the cement work that you did is you worked on small pours, I guess, as opposed to large pours. Can you help me understand what it means when you say you worked on small pours?

Small pours is — it's something you can do in a day. A large pour's when you've got to stay until it's finished

Okay. Now, when you said you worked on -on small pours -- and I'm not -- as you sit here today, you understand what you meant by that prior testimony?

MR. GIVENS: Didn't you just ask him -- did you just ask how -- in relation to what a small pour

MR. IRELAND: Well, he said that. BY MR. IRELAND:

Q I mean, I'm just trying to figure out what's involved. I mean, you said that a small pour is something that you could finish in a day. A large job is something that you can't do in a day.

Yeah. It's according to how big the area is, you know, what you're doing.

MR. GIVENS: John, give him an example of what a small pour is, is what he's asking about, I think.

A small pour is a pour where you could say if you're going to -- when you start a building, you're going to get the footing. Ain't nothing to put in the footing; just pour your concrete and make sure it's the right height. A large pour is when you're trying to do the slab, the whole slab and, you know, you need to work with it until you're through with it. BY MR. IRELAND:

Q

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

You can't do half a day and -- and don't get it all done. Just try to do the whole thing and be through with it.

Okay. Did you do chip work on large pours Q and small pours?

Α Yes, sir.

Okay. Now, the -- the chip work that you Q did was to existing -- or to -- to the cement that y'all had poured. Right?

> A Yes, sir,

Well -- so the cement would have been pretty fresh, the cement that you would have been chipping?

No, no, no. Most of the time, it'd be -then you can dry it. Where it is, they'd come and say, "This needs to come out. It's not a good pour." You know, an engineer might see it. And we just have

21

22

23

24

25

to, you know, usually chip it out.

Q Yes, sir. Well, the -- the cement that you would have done the chip work on, it wouldn't have been like as hard as like a sidewalk that we see outside, though, that's been in the sun, you know, all day long?

Α Yes, sir. It's -- it'd be something like that.

> Okay. You're saying it's the same versus -Q

What you -- where it dry at. You don't want -- you don't want to chip a concrete where it's still green. All you can do is make it worse than what it was.

Q

You need to let it dry so you can get the bad spot out of it and then, you know, go back over it.

What kind of concrete did you use while y'all were working with Gordon -- Gordon Myrick?

I don't know what kinds of concrete they used when they -- when they're pouring concrete. All it -- it gets mixed up when it's done.

So did you use any sand -- excuse me, any -any concrete that came in bags at all while you were working at Gordon Myrick?

Yeah, we did use the bags of cement. Α

Q You don't have any idea what those bags were?

No, sir, I don't know. I don't know the name of it right now.

Ever seen any of the warnings or information on those bags -- excuse me, warnings or instructions on those bags?

Yes, sir. They had warnings and instructions on them.

Can you tell me, as you sit here today as best you remember, what the information on those bags said?

No, sir, I can't.

Did y'all use more than one kind of sand --Q excuse me. Let me start over.

Did y'all use more than one kind of concrete? And I'm talking about the bags now.

No, sir. One kind. One kind of cement.

Were there different times of the year where the chip work that you did and the other concrete work that you did was dustier than other times?

When it's real dry, it's -- it is dusty.

Okay. The worst of the worst, what - can you describe the — what the air looked and felt like?

1

2

3

4

5

11 12 13

14

10

19 20 21

22 23 24

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

24

25

11

5

10 11 12

13

14 15 16

17 18

Myrick?

22 23

25

M5. SKIPPER: Object to the form.

Well, you'll be outdoors and -- and -- and all of a sudden, the wind come up and it blow a lot of dust up. It'll be something like that, real dusty. BY MR. IRELAND:

What did your employer out at Gordon Myrick tell you about you need to wear a dust mask while you were doing concrete work?

They didn't tell me nothing about dust masks,

Well, did everybody out there at Gordon Myrick wear a dust mask while they were doing the similar concrete work?

Yes, sir. And I don't know what kind of work they'll be doing. I just can only speak for what -- what I did.

Q I'm not asking you that. I'm asking you if -- if everybody out there wore a dust mask while they were doing the same kind of concrete work you were doing. Did everybody do it, or was it just you is all I'm getting at?

When we poured concrete, everybody had a dust mask on

All right. Did -- did Gordon Myrick have a policy or any -- about wearing --

I don't know.

Q Did -- did you ever see any handouts or information about, you know, proper safety practices when you're doing the concrete work?

They have had brochures when they -- you know, when we have safety meetings.

Did -- did those brochures address respiratory protection at all?

Not as I know of.

What did you do with the cupped masks that you wore at Gordon Myrick when you -- when you weren't wearing them?

Α If I'm -- if I'm through with it, I'll throw it away.

You didn't -- I mean, you didn't wear it all day long, every day. You took it off at different times in the day?

Yes, sir, we did take it off.

With the flat one, you said that you put it Q in your pocket.

Α Yes sir.

Then what would you do with the cupped one? Q

Well, if I'm through with it, I'd throw it away. But if we're still using it, it's got that -that double string on it. You just pulled it down,

and it'll -- it'll hang on your chest right here (indicating).

> Q Yes, sir.

And you've got it with you.

Are you aware of whether Gordon Myrick did any air monitoring or air sampling on any of the works that --

Α Not as I know of

Who were your coworkers out at Gordon Myrick, that you can — that you can remember?

Sammy Love, John Henry Cole and Bobby Taylor, Carlos Taylor, myself, Red Hardy. It's a -it's a bunch more. I just can't -- I just can't think of all their names right now.

You provided some names in an interrogatory response, or your counsel did. And they're Red Hardy, Sam Love, John Cole, Bobby Taylor are in there.

Was John McLaurin a coworker at Gordon

John McLaurin was -- was at Howard Industries.

> How about LeAnn McGavin? Q

At Howard Industries. Α

James Hayes? Q

Α Howard Industries. Q William Chapman?

Α Howard Industries.

Q Tyrone Hicks?

Howard Industries. Α

James Barnes?

Howard Industries. Α

Q Larry Lawrence?

A ` Didn't you call him a while ago, Larry McLaurin?

Q Larry Lawrence?

At Howard Industries.

Now, you said Red Hardy is not living. I Q believe you said the same thing about Sam Love. Is that right?

> They were at H. Gordon Myrick. Α

Yes, sir. I mean, is Sam Love alive? Q

I can't say. I don't know. Α

Q Haven't seen him lately?

Α Huh?

Q Haven't seen him lately?

No, sir, I haven't seen him. Α

John Cole, is he alive? Q

Α Yes, sir.

Where does he stay at? Q

He stay the same place where I stay.

Ellisville.	
Q	Do you know his address, by chance?
Α	All I know, he stay in Days Town in
Ellisville.	
Q	Days?
Α	Days Town Road Ellisville

- A Days Town Road, Ellisville.
  Q What about Bobby Taylor? Is Bobby Taylor still ---
  - A He -- he done passed.
  - Q What about Carlos Taylor?
  - A He done passed.
- Q Mr. McGillberry, you've told us today, and we've talked about it, two AO masks, the masks that are identified in Exhibit 2 and Exhibit 3. Right?

MR. GIVENS: Exhibits 3 and 4.

A Three and four.

BY MR. IRELAND:

Q I'm -- I'm sorry. Thank you. Three and four.

Have you told us today everything that you remember about the warnings and instructions you read on -- on the two AO masks that are depicted in those exhibits.

- A Have I told you what, now?
- Q Everything that you remember about the

warnings and instructions that -- that you may have seen on those two masks that are depicted in those two exhibits?

A Yes, sir.

- Q Did you ever tell any of your employers that any of the dust masks that you wore, any of them, didn't fit good?
  - A Oh, no, sir.
  - Q Did you have any problems with the fit?
  - A No, sir.
- Q Did you ever ask for another mask? "Hey, I don't like this mask, do you have another one?"
  - A No, sir, I never did.
- Q You've talked about using a 3M -- well, let me just ask.

Did I understand your testimony correctly that you used 3M and AO masks at Tom Pittman and at Daniel Construction and at Gordon Myrick?

- A Yes, sir.
- Q If -- if there were -- if there were two kinds of masks that were available one morning, if there was a 3M mask and an American Optical mask, which one would you pick?
  - A Whatever one is closest.
  - Q It didn't matter to you?

A No, sir.

Q Mr. McGillberry, did you look through similar kinds of picture books prior to your first deposition?

- A Yeah. He showed me some pictures.
- Q Were there a number of dust masks similar to the cupped one we see in Exhibit 4 and --
  - A Yes, sir.
- Q Okay. Did -- did the books that you saw before your prior deposition, did they -- did they include any packaging or warnings type information?
- A Yes, sir. A couple of letters on the top of it and a number.
- Q Just generally speaking, did the books that -- that you looked at before your first deposition, as best you can remember, did they include not only pictures of masks but pictures of packaging and boxes and bags and things of that nature?
  - A I don't remember seeing no boxes.
- Q Okay. Now, in your first deposition, Mr. McGillberry, the only masks that you identified were 3M masks. And you've identified additional . masks --
  - A Uh-huh.
  - Q -- here today. Would you have seen the --

the masks -- well, let me just ask it like this: Did you see the masks that are pictured in Exhibits 3 and 4 in the books that you looked at prior to the first deposition?

A That -- I don't think they had the -- the same -- I don't know. But after we went through these books, it was -- that mask come up. And it -- it did seem like some of the masks that we used.

Q Yes, sir. I'm just -- I'm not sure you quite answered my question. I was asking if those two masks that are in Exhibit 3 and Exhibit 4 were in the books that you looked at before your first deposition.

MR. GIVENS: I'm going to object. That's asked and answered. He said he doesn't know, and then he followed up with an explanation. So he did answer your question.

BY MR. IRELAND:

Q I'm fine with -- with you don't know. Is that your answer?

MR. GIVENS: That — that's his answer. That's what he said.
BY MR. IRELAND:

Q And I -- I don't -- I really don't have very much left.

With respect to the dust masks that you used

24

25

18

1

9 10 11

12

13

14

8

19 20 21

at Tom Pittman, can you tell me in terms of percentage of use, 3M masks versus American Optical masks?

You're saying what, the time?

Q No. sir.

Or which one I used the most? Α

Yeah. Well, how much did you use a 3M mask, and how much did you use the American Optical mask at Tom Pittman?

To me, about the same.

Same question with Daniel Construction. What percentage of the time did you wear a 3M mask versus an American Optical mask?

Usually, whatever -- whatever mask is in that box when I go to get it, that's what I get. I didn't -- didn't -- didn't nobody tell me what specific mask to wear. Whatever was in that box, that's what I got.

So you can't tell me how often you used the American Optical versus --

No, sir, I cannot.

Now, with respect to Gordon Myrick, can you tell me what percentage of the time you used a 3M mask versus an AO mask?

Α No, sir.

Do you have any living brothers and sisters?

A It's li of us.

Q All in Jones County or --

Α Yes, sir.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Q I'll just ask at --

Α Yeah, everybody at home.

Q All McGillberrys?

Α Couple of sisters married.

Okay. Tell me their last names. Well, tell Q me — tell me your brothers' and sisters' names, please, sir.

My oldest brother, Lamar McGillberry. My next brother is Larry McGillberry. My next sister is Eileen McGillberry.

MR. GIVENS: What's her name now?

Her name is Eileen Wiggim now. And my --I'm next. The one after that is Fannie Millsap. And I have a brother, he's deceased -- deceased, he died. And the next one is Rita -- I can't think of their last name. And then I've got Wanda Thomas, Barbara McGillberry and Henry McGillberry.

BY MR. IRELAND:

Q Tell me Eileen's last name again. I didn't catch it.

> Α Wiggim.

Q Can you spell that?

103

Α No, sir. Q Okay. Neither can I.

Did you -- did you work with any of your brothers and sisters at Pittman?

I have worked with my -- James McGillberry. But he's -- that's the one that's passed.

Q James?

Α Yes, sir.

O What about at Daniel Construction?

Α

Q How about at Gordon Myrick?

Α No, sir.

You talked a little bit about your first silica lawsuit. Mr. McGillberry, did you receive any settlement money in connection with the first case? I don't need to know numbers right now, but I'm just asking if you received any settlement money overall.

Not that I know of. I think.

Your recollection today is -- is that you didn't receive any settlement money in connection with the first silica lawsuit?

Yes, sir.

MR. IRELAND: Okay. I don't have any more questions right now.

THE WITNESS: Can I go to the bathroom?

I've got to go.

THE VIDEOGRAPHER: We are going off the record. The time now is 1:06.

(Off record)

THE VIDEOGRAPHER: We're back on record. The time now is 1:10.

MR. IRELAND: Do you have any --

MR. GIVENS: One quick -- right -- that last question you asked him about the settlement, can you -- can you ask that again? He remembered out there.

MR. IRELAND: Sure.

MR. GIVENS: Just so he can clear that up while we're on the record.

BY MR. IRELAND:

Q Did you receive any settlement money in connection with your first silica lawsuit?

I got some money, but I don't know what it was for. They never did say. And don't know how much it was. It's been a while.

You did get some, just don't remember how. much?

Yes, sir.

EXAMINATION

BY MS. SKIPPER:

Q Okay. Do you know who your lawyers were for that lawsuit?

Α No. Because when I first did it, that was the first one I ever did. I'm not for sure

Does the name Patrick Malouf mean anything to you?

Α Patrick, unh-unh.

No? I'm sorry. I usually actually get to Q answer -- ask the questions first. So it's funny for me to do on -- on the flip side. We have a court reporter here today.

> Α Uh-huh.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

24

25

Q And she can't take down an "uh-huh" or "unh-unh."

> Α Okay. Okay. I'm sorry.

Q So if I point --

Yes, ma'am.

Q -- to her --

Okay.

Q -- that's just me trying to remind you to say

Α Okay. Okay. Yes or no.

Filed 07/06/10 Page 27 of 48

Q -- "yes" or "no". Yes.

Α Okay.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Okay. And I remember what the question was Q that I asked you. Does the name Patrick Malouf mean anything to you?

Q Okay. Have you talked with any lawyers about your asbestos lawsuit?

It's been -- been a long time now.

Do you remember where the lawyers were that Q you talked to?

Α I don't -- I don't know for sure.

Did you have an idea? You said not for sure. So that makes me think that you have an idea, you just --

Α I know I had one.

Q Uh-huh.

But everything was -- didn't go through. So I hadn't heard nothing from them.

Okay. Q

So I don't know for sure what were their names. Because that was — that was way back before

Well, I just -- I just don't know.

MR. GIVENS: He -- you're borderline asking him for expert medical testimony, which he's not

qualified to offer. The medical records will speak for themselves. He's testified that he has a lung condition and a lung injury, and I just believe that the question is improper for this witness.

MS. SKIPPER: Okay.

BY MS. SKIPPER:

Do you -- since you filed an asbestos complaint, you were -- is it your understanding that you were seeking money from companies related to your exposure to asbestos?

Yes, sir -- yes, ma'am.

Q It's okay.

Do you remember any of the defendants that you sued in that matter?

No, ma'am.

Q Where were you exposed to asbestos?

Α My lungs.

Q I'm sorry?

In my lungs.

Okay. At what work site? MR. GIVENS: Can you put your hands down? THE WITNESS: Okay.

BY MS. SKIPPER:

24

25

Q At what work site were you exposed to asbestos?

107 1 my childrens were even born. 1 2 Do you think that you have an 2 3 asbestos-related condition? 3 4 Everybody say I do. 4 5 Q Do you think you do? 5 6 Α I don't know what to believe. 6 7 Q You don't know what to believe? 7 8 Α I don't know what to believe. 8 9 Q Why do you think that there's a question? 9 10 Α I am getting the runaround. 10 11 Okay. You're getting the runaround from 11 12 your lawyers or the runaround from defendants? 12 13 MR. GIVENS: I object. 13 14 BY MS. SKIPPER: 14 15 Runaround from --15 16 MR. GIVENS: I'm objecting because you're 16 17 asking him basically for medical testimony here. And 17 18 he's not here to --18 19 MS. SKIPPER: I'm not asking him for medical 19 20 testimony. 20 21 MR. GIVENS: I disagree. And I'm going to 21 22 state my objection for the record. 22 23 23

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

22

23

24

25

22

23

24

25

1

24

25

Á

I don't know which one. You know, all I know is they all -- they asked me what different places I worked at.

Uh-huh. Q

Α And they was going from there, and that -that's all I -- I know.

Do you know what products related to asbestos you might have used?

No, ma'am.

Q And you said your lungs. Do you think that your exposure to asbestos has affected your lungs?

Yes, ma'am.

Q And how do you think it has affected your lunas?

Can you repeat the question, please, ma'am?

Yes, sir. How do you think it has affected your lungs? "It" being asbestos exposure.

I don't know. I don't know. Α

If your asbestos complaint claimed a lung injury due to asbestos, what would that mean to you? The lung injury that was being claimed in that complaint.

What would it do to me?

Q What would it mean to you? What does that mean?

### Filed 07/06/10 Page 28 of 48

MR. GIVENS: Now, you're seriously going to sit here and ask him what a legal pleading means to a common person?

MS. SKIPPER: I just -- it was in the complaint, which he was a party to. I'm simply asking what he was claiming in that complaint.

MR. GIVENS: Y'all are absurd in what y'all ask

All I can say is if I had it, I just had it. Α That's all I can say. BY MS. SKIPPER:

Q Did you receive any money from your asbestos lawsuit?

No, ma'am.

Q You never received any checks from any of the defendants?

Α No, ma'am.

Q Did you receive any checks from any lawyer related to your asbestos suit?

I received money one time. And that's the only time I received any money.

> Q You receive disability. Correct?

A Yes, ma'am.

Q How much do you receive in disability in a month?

Well, since they cut it, I get 1,299 a 2 month. 3 Q Why did they cut it? 4 Α I don't know. 5 Q When was that? Α 6 The first of the year. 7 Q Does your wife work? 8 Yes, ma'am. 9 Q Where does she work? 10 Α She's a home health sitter. She sits for a 11 lady. Who does she sit for? 12 Q 13 Alice Robertson. 14 Q Is that in Laurel or --15 Α Ellisville. 16 And I know you know what the end of my 17 sentence is going to be, but it makes her job a lot 18 easier if you'll let me finish before you answer. 19 Otherwise, she has to type back and forth so she can 20 get to the end of our -- our sentences. 21 How long have you been receiving disability? 22 I believe I started getting it in -- close 23 to two years after I applied for it when I got off

Before it was reduced at the beginning of this year, do you remember what you were receiving in disability?

Over 13-something.

Q Why do you receive disability?

A Because I can't -- I can't work no more.

Q What did you claim?

Α Ma'am?

Q What did you claim in your disability file?

Well, it's -- it's -- it's my health, my lungs is messed up. I just - I can't - I can't work without this (indicating) right now.

Did you ever claim silicosis or a silica-related condition when you filed for disability?

Well, my doctor took me off work. That's all -- that's all I did. When he took me off work, I just filed for that.

Did you claim that you had an Q asbestos-related condition?

Α Before I got off of the work or after the work?

Q When you filed for disability.

No. I did not. Α

Q Did you claim that you had sarcoidosis?

16 17 18 19 20 21

work in 2001. I think about maybe 2003, somewhere in

there, or four, but I'm not for sure.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

MR. GIVENS: Stop for a second. If you have his disability report here, and you're going to make it an exhibit, then you're going to let him look at it because he filled that out probably seven years ago, eight years ago. And I'm not going to have you sit here and ask him questions that you're making him to appear to not be telling the truth because he can't recall what's in the document he filled out that long ago. So if you want to ask him questions about it, then let's produce it and we're going to make it an exhibit.

MS. SKIPPER: I've produced the entire file to you.

MR. GIVENS: If you're going to ask questions about it today, you're going to make it an exhibit to the testimony. That's all I'm saying.

MS. SKIPPER: I certainly will be glad to show you the documents.

BY MS. SKIPPER:

Q So you did claim that you had sarcoidosis?

Yes, ma'am. That was -- was told to me --Α

Q Okay.

Α -- a long time ago.

And you talked about every -- twice a year

you go to your lung specialist.

Yes, ma'am.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Who is your lung specialist?

Well, my lung specialist now is -- is Dr. Lewis Neese.

Okay. And I'm going to show you --MS. SKIPPER: And we'll make this -- what are we on five -- collective 5. It's Bates 273 and 272 of the Social Security earnings -- or Social Security Administration Disability file.

(Exhibit 5 marked)

BY MS. SKIPPER:

And these are letters that Dr. Neese wrote to Social Security regarding your disability.

Uh-huh.

Q And you're copied on those letters. Do you remember receiving those letters?

A I've got plenty of letters. I don't know for sure.

Q Okay. If you want to take a look at those, it's just copied back and front.

I might have got them, but I don't -- I don't know for sure.

> Q Is that your address at the bottom?

At the bottom? Á

MR. GIVENS: The 809 McManus Street.

I see it. Yeah, that's my address.

BY MS. SKIPPER:

Yes, sir.

Q Okay. Has that -- those letters both are trying to tell you -- and feel free to read them and tell me if I'm not paraphrasing this correctly — are trying to say that you're disabled because of sarcoidosis. And he's asking that the disability office reconsider your denial of your disability claim. Is that what you understand those letters to be?

Α Yeah, I know. I understand.

All right. So Dr. Neese thinks that you Q have sarcoidosis.

> Α Uh-huh.

Q Is that fair?

Α That's -- that's -- that's all I've ever knowed.

> Q Okay.

A Because that's what they told me that I had.

I want to talk about your non-treating doctors, doctors related to litigation. How many screenings have you been to?

MR. GIVENS: When she uses that fancy word

"screen," she means when you go and get tested somewhere.

I got tested once in Laurel, and I did an x-ray in Jackson. That's it.

BY MS. SKIPPER:

I'm going to show you -- it's from 1999. It is from a Dr. Phillip Lucas. This was also in your disability file.

> MS. SKIPPER: We'll make that Exhibit No. 6. (Exhibit 6 marked)

116

BY MS. SKIPPER:

Q Do you remember going to see a Dr. Lucas in 19992

I ain't never heard the name.

I'm sorry? Q

I hadn't heard the name. Α

Q Do you remember seeing that document?

Okay. Now, I remember the name.

Okay. Tell me about how that -- how we got to that document. Where were you, and when did you see Dr. Lucas? How did that come about?

MR. GIVENS: Let me object because that document doesn't say that he saw Dr. Lucas. The only thing that document says is that Dr. Lucas read two x-rays.

115

12 13

15 16

18

20 21

23

24

25

11 14

17

19

curtain.

1

2

3

4

5

6

7

8

9

Q Do you remember where it was?

A In one of the motels up there in Jackson. I'm not for sure which one. I don't know.

Do you remember what year?

Α I believe it was in 2000.

How did you know to go to the motel in 2000? Q

Α I had received a letter.

Q Do you remember who that letter was from?

No, ma'am. Not -- not now, I don't.

Q Do you still have the letter?

Α I don't know.

Okay. We would request that you look. And if you do, inform your counsel. And then he can either produce it to us or claim a privilege if one is applicable.

In 2000, did you have any lawyers?

Was it Foxworth out of Gulfport? I believe.

I'm going to show you -- it's a report from Dr. Ray Harron that's dated June 26th, 2002. I want to see if you've ever seen that document.

I'm not for sure. I don't know.

Q Okay.

MS. SKIPPER: We'll mark that as the next exhibit. It's two page --

119 1 Ma'am? 1 2 BY MS. SKIPPER: 2 3 I was talking really to the court reporter. 3 4 MS. SKIPPER: We're going to mark that as 4 5 Exhibit 7. It's a two-page exhibit. 5 6 MR. GIVENS: I'm going to object to that 6 7 being admitted. There's no foundation and no 7 8 testimony for this. 8 9 MR. IRELAND: Object to that being a 9 10 previous exhibit, also. 10 11 (Exhibit 7 marked) 11 12 BY MS. SKIPPER: 12 13 Would you mind handing me 7 back, please? 13 14 Thank you. 14 15 Has anyone ever told you that you have coal 15 16 worker's pneumoconiosis? 16 17 Not as I know of. 17 18 Q Have you ever worked with coal? 18 19 Α I don't know of a -- coal, now? 19 20 Q Coal. 20 21 MR. GIVENS: Like the black stuff. 21 22 Α No, unh-unh, 22 BY MS. SKIPPER: 23 23 24 Q Never worked with coal? 24 25 No, sir -- no, ma'am. 25

Maybe just on a barbecue. Just like a Q barbecue, coal.

> Α Coal?

MR. GIVENS: Coal bricks, you know, you barbecue with.

Α Oh, yeah.

BY MS. SKIPPER:

Q But there's no other type of --

Α Νo.

Q -- coal?

The coal you eat with, you're talking about?

Yeah. You could -- you could if you have a -- a coal-burning stove.

How about the name Dr. Jay Segarra?

I never heard that one. But I imagine I did see him somewhere. I don't know.

Okay. Do you remember in October 2004 going to Jackson to do a breathing test where you breathe into a tube? They tell you to breathe, breathe, breathe, breathe, breathe. You're supposed to breathe as hard as you can.

MR. GIVENS: It's called a PFT. Have you ever done a PFT?

No, I did one in Laurel. I didn't do one in Jackson.

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

BY MS. SKIPPER:

Q We will mark as the next exhibit, it's 8. And you're welcome to look at it and tell me if you've ever seen it. It does state on Page 2 that there was a PFT performed in Jackson, on October 9th, 2004, on YOU.

> MR. GIVENS: Same objection. (Exhibit 8 marked)

I don't remember.

BY MS. SKIPPER:

Have you ever seen that document before?

I don't know, ma'am. I don't know. Seriously, I do not.

And your counsel has it, but I have another copy. On the second page under diagnosis and impression, it does state that you have an advanced stage four pulmonary sarcoidosis. And under 2, it's on Page 2 listed No. 2, "No convincing evidence of pneumoconiosis, asbestosis or silicosis."

Do you see that?

Uh-huh.

Has anyone ever actually told you you don't have silicosis or asbestosis?

No, ma'am. All I do is go take the test. that's it.

I'm going to show you a document from Q Dr. Steven Stogner dated August 6th, 2009.

MS. SKIPPER: Nine? I'll mark this as Exhibit No. 9.

BY MS. SKIPPER:

Have you ever seen that document before? (Exhibit 9 marked)

You know, all my doctors is in Hattiesburg Α Clinic.

BY MS. SKIPPER:

Uh-huh. Dr. Neese, Dr. Parkman, Dr. Oshneo. Q

Α Dr. Phillips.

Q Uh-huh.

Α See, all my doctors are down there.

Q How about Dr. Stogner?

Α Stogner?

Q Stogner.

Stogner, New doctor? Α

He's not new.

MR. GIVENS: Mr. McGillberry, that's a medical expert witness we've hired to help us in this

THE WITNESS: Uh-huh.

BY MS. SKIPPER:

Q That's true.

Have you ever seen that document before?

Α 2009.

MR. GIVENS: It's okay to say -- if you haven't seen it, it's okay to say no, you haven't seen it

I don't remember.

BY MS. SKIPPER:

Have you ever seen Dr. Stogner?

Like I say, I got a lot of doctors down there. Names don't mean anything. Faces -- I know a lot of faces, but no names. I don't remember.

Because the only lung doctor I see down there is -- is Dr. Neese. Now -- now, he could be one of the doctors that have come around when Dr. Neese is not there. He might have seen me in the hospital. I don't know.

Has any doctor that you go see if you were sick, not for a legal purpose, not for any kind of screening, but in a nonlegal sense, has any of those doctors ever told you you have silicosis or a silica-related condition?

Α No, ma'am.

Same question for asbestos. Has any doctor in a nonlegal setting told you you have an asbestos-related condition or asbestosis?

No, ma'am,

Q Is it my understanding that all the doctors you've seen in a nonlegal setting have told you you have sarcoidosis?

Α The three doctors I go to, yeah. That was my lung doctor.

Q Uh-huh.

Α He just told me I had silicosis -- I mean. not silicosis but --

> Q Sarcoidosis.

Α -- sarcoidosis.

Q Have you ever had histoplasmosis? Does that name sound familiar to you?

No, ma am.

I thought I saw an old record of yours. Q Have you ever been around chickens?

Yes, ma'am,

Q Okay. Live chickens?

Yes, ma'am.

Have you ever been around chicken droppings? Q

A It's in the house.

It's in the house, in your house? Q

In the chicken house. Α

Q

Α No, no, no, in the chicken house.

- Where were you around a chicken house?
- I worked for Sanderson Farms, used to work
- Okay. And you had to go in the chicken
- Other than your silica suit and your asbestos suit, have you had any other lawsuits which
  - About anything,
  - A car accident.
  - Okay. When was that?
  - This lawyer right here (indicating) did it.
- The lawyer in here did it. I don't know for sure what -- what -- what year.
  - Was it in the last five years?
  - It's about -- maybe five years.
  - Were you injured in that accident?
  - What -- what injuries did you have?

Α	I had it	messed	my back	up and	my neck
---	----------	--------	---------	--------	---------

- Q Do you know who you sued?
- Α No, ma'am. They -- they died.
- Q Okay. It was a person, not a company?
- Α It was a person.
- Okay. Other than your car accident suit. the asbestos suit and the silica suit, have you had any other lawsuits that you've filed?
  - No, ma'am,

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

127

MR. GIVENS: It says in the -- now, we did disclose in this discovery responses we -- I think you told us previously you may have had some type of workers' comp case back in the early '80s. I don't know if you remember or not. I mean, is that what you're asking about?

MS. SKIPPER: I think the supplement says that was a mistake.

MR. GIVENS: That was a mistake. Okay. I just wanted to make sure that was the same. BY MS. SKIPPER:

- Q Yeah. I think your original responses said you had a workers' comp case, but the supplement -correct me if I'm wrong -- I think said that it was a mistake, and you didn't have a workers' comp case.
  - Well, I went to the -- what is it? Is it

#### the EEOC?

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- Oh, discrimination? Q
- Α Yes, ma'am.
- Okay. And what was that for?
- But I don't think -- they said I didn't get fired because of what they got -- what they had got fired for. What they were saying is, this person did that and you got fired for it. They should have fired her. So it's got to be the similar, the same thing.
- Okay. And who were you working for when you thought you had an EEOC claim?
- Who was I working for? I think it was -- I don't know. I don't know.
- Q Do you remember if you were being -- if you were a truck driver at that time, or if it was before you became a truck driver?
  - It was before I become a truck driver.
- Okay. Have you -- and I -- and I don't know exactly what it was related to, but I -- I've seen your name related to a lawsuit against First Family Financial Services, Inc., and a lawyer, Charles Gibson, with The Gibson Law Firm.
  - Α
  - I haven't gotten the information yet. Q
  - I done heard something from the Gibson Law

Firm.

- Q Okay. Did -- did you ever hire Mr. Gibson?
- Yeah, I remember that name. But I can't -okay. Okay. I see what you're talking about. I see what you're talking about. It was the First Family or city?
  - Q First Family Financial Services, Inc.
- Yeah. It was something like they was overcharging, something -- something like that they were saying.
- Overcharging you, do you remember in relation to what?
- Interest or something like that. Whatever it was, they were charging me too much. Something like that, now.
  - Did you have like a loan with them? Q
  - Α Huh?
- Q Did you have a loan with them, or what was your dealings?
- Well, what come up was, that one company, they was -- they were charging you one price and getting back something else for it. And they come up with a lawsuit for that. But then I don't think nothing happened about it.
  - Do you remember hiring any other lawyers for

131

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

# 2 2 2 2 2

21

22

23

24

25

Q

Α

For a long time?

For a long time.

I think -- when is the first time you

started dealing with sarcoidosis, in the late '70s?

The late '70s, early '80s.

			<del>,</del>
1	any othe	r lawsuits that you've filed?	1
2	A	Could be, but I can't think of none right	2
3	now.		3
4	Q	I don't have anything in my bag of tricks,	4
5	so I don	't know either. I was just asking.	5
6		How about being sued, has anyone ever sued	6
7	you?		7
8	A	For not paying a bill.	8
9	Q	And who was that party?	9
10	A	Who was that? It's been a long time. I	10
11	can't thi	nk of the	11
12	Q	Are you aware that this lawsuit is set for	12
13	trial Aug		13
4	A	Yes, ma'am.	14
5	Q	Are you planning on being at trial?	15
6	A	Yes,	16
7	Q	Okay. No one has told you you're not going	17
8	to be at t		18
9	A	No, ma'am.	19
20	Q	When we took your deposition in 2004 — and	20
1	I was the	re then, too.	21
2	A	I know, yeah.	22
3	Q	All right. It's hard to forget a	23
4	six-foot-	tall woman.	24
5		Did you know that your case was set for	25
	1	,	

trial the	n? 130
Α	If it I don't know. I don't know.
Q	Do was it your understanding we were
taking ya	ur deposition because we certainly were
	towards trial?
A	Now, that's what I thought when they took my
depositio	n, it was going to trial.
ે Q	
Α	Apria Healthcare out of Hattiesburg.
Q	What was that first name?
Α	Apria.
	MR. GIVENS: Is it on there?
	THE WITNESS: It's on there somewhere.
There it	is right there (indicating).
	MR. GIVENS: It's A-P-R-I-A Healthcare.
	MS. SKIPPER: Okay.
	MR. GIVENS: Which that makes the oxygen.
They're o	out of Lake Forest, California.
	THE WITNESS: California. But they have an
office in	Hattiesburg.
	MR. GIVENS: Oh, they have an office there?
	THE WITNESS: Yeah.
	MR. GIVENS: Okay,
	MS. SKIPPER: Okay. Thank you.
	THE WITNESS: That's just the main office.

#### 1 BY MS. SKIPPER: 2 Do you know what silicosis is? 3 No, ma am. 4 Q Have you told Dr. Neese or any of your 5 treating doctors about this lawsuit? 6 No, ma'am. 7 Okay. And when your counsel was questioning 8 you, you said something like that you know what you 9 have doesn't have a cure. What were you referring to? 10 It don't have a cure for it. 11 Q What -- what is "it?" 12 Whatever I got. When he told me I had 13 sarcoidosis, he said I can get a -- a lung transplant 14 and live a normal life --15 Q Uh-huh. 16 Α -- or die from this -- die with it. 17 Dr. Neese told you that or who? 18 Well, he give me the medicine, you know, to 19 slow it down. But like he told me, it wasn't no cure for it. I done had it. 20

Q	Okay. That's what I thought.
A	With Dr. Parkman.
Q	Does Dr. Parkman he's still at the at
Hattiesbi	urg Clinic?
Α	Yeah.
Q	You just changed to Dr. Neese?
Α	Yes, ma'am. They changed me.
Q	Oh, they changed you?
Α	Yes, ma'am. I didn't change, they changed.
Q	And dates get away from me, as well. Today
you said e	arlier that you're you started having
	athing problems in '94 or '95. When you filed
	lity, you'd written - and you're welcome to
see it.	
	MR. GIVENS: Let's just make that whole
applicatio	n the next exhibit like I requested a minute
ago, pleas	
BY MS. SI	KIPPER:
Q	The date is January 10th, 1986. You're
welcome t	o look at it if you want. Do you think that
	'80s or do you think it's the '90s? I'm
	to trick you. I'm just trying to figure
_	stantad having much laws a fixed 12

e -- you started having n '94 or '95. When you filed n — and you're welcome to et's just make that whole t like I requested a minute iary 10th, 1986. You're want. Do you think that hink it's the '90s? I'm n just trying to figure out if you started having problems a little bit earlier than the '90s. I'll tell you like this here (indicating),

1

2

7

9

17

18

19

21

24

25

my secretary filled all my paperwork out. Your secretary. Who's your secretary?

Α My wife.

Q Uh-huh.

She take care of all the paperwork.

Q

Α She knows more about me than I know myself.

Q

So whatever date she put down there, it could be right, it could be wrong. I just -- I don't know.

Okay. And the rest of this is the rest of that -- that application. On the back page is your signature, I believe. It wanted to get you to look at that and tell me --

MR. GIVENS: That's your signature. BY MS. SKIPPER:

> -- if that's your signature. Q

That's my signature. MS. SKIPPER: Okay. We'll make that ten. (Exhibit 10 marked)

BY MS. SKIPPER:

So -- and tell me if I -- if I'm not correct in this. Would it be fair then to say, if your wife said you started having breathing problems in 1986

that she's probably remembering more correctly than you are?

Well, she -- she remember a lot of stuff that -- that I don't remember.

> Okay. Q

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

And it's like some things you tell her, and some things you don't tell her. And some things she can -- she can feel for her herself and -- and where you're at, or what you're doing.

MR. GIVENS: Yeah. And we'll be glad to stipulate that he started having breathing problems before '86 if you want to push the damages back even. further. I mean, now, that's fine.

BY MS. SKIPPER:

So whether it's 1986 or '94 or '95, you did keep working after that?

Yes, ma'am.

Okay. And sometime around in that time frame, you started being a truck driver?

Yes, ma am.

Q And you have your SRT shirt on today. That's Southern --

Refrigeration Transportation.

Q Trucking. You - Transportation, Right.

Yes, ma'am,

135 Q And you were a truck driver for them. Α Yes, ma'am. Is that correct? Did you make more money driving trucks than Uh-huh. Α Q You did? A Uh-huh. Q Yes? Α Yeah. Yes, ma'am.

Q What was that second name, Lamar?

Α Larry. Q Oh, okay. I know we got Larry.

Α You didn't get Larry?

Q No, we got Larry.

Lamar, Larry, Eileen, John, Fannie. Okay, Α Debra.

Q Debra?

Α Debra.

Q What's Debra's last name?

Α Moore, Yes, Debra,

I want to ask you if any of your siblings' Q spouses are from Jones County?

All of them are Jones County. All of them but one.

Q Okay. Who's the one that's not from Jones County?

My sister Debra. Her husband was Odea Moore Α from Hattiesburg

Q Do they live in Jones County now?

They live in Hattiesburg. Α

Q Hattiesburg. Okay. Tell me the maiden name of Henry's wife?

Henry not married.

Not -- never married? Been divorced? Q

He done had so many womens, I don't know.

Okay. How about Barbara, has she been Q

3 4 5 you did when you were working for Daniel Construction or Myrick or Gordon Pittman (sic)? 6 8 10 11 12 Okay. I know you told me you have 11 brothers and sisters. And I think I wrote them all 13 14 down, but I have 10 with you. Lamar, Larry, Eileen, 15 you, Fannie, James, Rita, Wanda, Barbara -- Barbara, 16 excuse me, Henry. Is there another one? Who? Α Q Is there another one? A Haven't you got 10? 20 Q That's 10. I thought you said you have 11. I've got 11. Let me see. There's so many 22 you can't keep up with them. Lamar, Larry, Eileen, 23

	<del></del>	137	_
1	married:	?	1
2	A	No, ma'am.	2
3	Q	Never been married?	3
4	A	Never.	4
5	Q	And Wanda's last name is Thomas?	5
6	A	Yes, ma'am.	6
7	Q	Who who is her husband?	7
8	A	He husband's dead.	8
9	Q	He's dead?	9
10	A	Yes, ma'am. He died in the oil field.	10
11	Q	Oh, do you remember what his name was?	11
12	A	Thomas.	12
13	Q	His first name?	13
14	A	Bobby Charles.	14
15	Q	I know you couldn't remember Rita's last	15
16	name a m	oment ago. Do you happen to remember?	16
17	A	It's McGill.	17
18	Q	McGill?	18
19	A	McGill.	19
20	Q	Okay.	20
21	Α	Her husband from Heidelberg, but he dead.	21
22	Q	Okay. Was James married before he passed?	22
23	A	He was married to a girl named Vivian. And	23
24	I think sh	ne was a Vincent, I think, now.	24
25		THE VIDEOGRAPHER: I need to change the	25
		, and the second se	

tape. Go	oing off the record. The time now is 1:52,
•	(Off record)
	THE VIDEOGRAPHER: We're back on the rec
The time	now is 1:52.
BY MS. S	SKIPPER:
Q	How about Lamar, who is his wife?
Α	Mary.
Q	What was her maiden name?
Α	Horn.
Q	Oren?
Α	Horn,
Q	Horn, excuse me.
	How about Larry?
Α	His wife's name Christine Christine.
Q	And her maiden name was?
Α	Harrick.
Q	Harrick?
Α	Yes, ma'am.
Q	And I know you said you had 16
grandchil	dren. Are any of them over the age of 18?
Α	None.
Q	None. Are any of them going to be 18 before
August 2	nd?
A	None.
Q	Okay. Have you ever worn a sandblasting

	II .	<del></del>	
1	hood?		1
2	A	I tried once.	2
3	Q	Do you know who manufactured that hood?	3
4	A	No, ma'am.	4
5	Q	Have you ever read your prior deposition?	5
6	A	Have I read it?	6
7	Q	Uh-huh.	7
8	A	No, ma'am.	8
9	Q	Have you gotten a copy of it?	9
10	A	Not as I know of.	10
11	Q	Have you given any other depositions other	11
12	than the	one in 2004 and this one?	12
13	A	I did one when I was in an accident.	13
14	Q	In the car accident?	14
15	A	Truck accident.	15
16	Q	Oh, that's right. In New Orleans?	16
17	A	Yes, ma'am.	17
18	Q	If memory serves, that was for SRT, too?	18
19	A	Yes, ma'am.	19
20	Q	Okay. Have you ever testified at trial?	20
21	Α	No, ma'am.	21
22	Q	Have you ever seen any mental health	22
23	professio	nals? That could be a psychiatrist,	23
24		gist, a mental health counselor.	24
25	Α	No. I remember I think I talked I take	25

<b>a</b>	a str	ess pill.
	Q	I'm sorry, a stress pill?
	Α	Yes, ma'am.
	Q	Do you know the name of that?
	A	No, ma'am.
	Q	Do you know who prescribes it?
	Α	I was in the hospital one one day, and
the	y gave	it to me.
	Q	When were you in the hospital that they gave
it to	you?	
	Α	I don't know what day it was.
	Q	Do you remember if it was this year?
	Α	No, it wasn't this year.
	Q	Last year?
	Α	No. I think I think I've been taking
this	a long	time.
	Q	Okay. And what is it supposed to do?
	Α	For stress.
	Q	How often do you take it?
	Α	Once a day.
	Q	Where do you go get your prescriptions
fille	d?	
	Α	Ward's Pharmacy in Ellisville.
	Q	Say that name for me again.
		<u>-</u>

Ward's.

Q Ward's.

Have you taken any medication today?

A Yes, ma'am. I took all my medicine this morning.

Q What does that involve?

A I take nine pills a day in the morning. I take five at night.

Q Okay. Would it be easier for you to give that list to your attorney and let him give that to us?

A Yes, ma'am.

Q Okay. Is it fair to say you don't -- you couldn't remember all of those?

A I can't -- can't remember all of them.

Q Okay. You would --

A I would just call -- call one of them healthcare companies.

Q Okay. That would be great if -

A Just one of them.

Q -- if you wouldn't mind doing that.

We talked about some of your coworkers.

Mr. Ireland went over some of them. But I didn't get where they are. Are they all in the Ellisville area or are any of these, Mr. Lawrence, Barnes, Hicks, are they anywhere outside of Ellisville? A They all live in the county.

Q In Jones County?

Q In Jones County

A Yes, ma'am.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

143

Q When's the last time you talked to any of these gentlemen?

A The last one I talked to was Larry McLaurin probably a month ago.

Q Okay. Did you tell him about your lawsuit?

A No, ma'am.

Q Did you tell him you were going to put in his name in the discovery responses?

A Well, I -- I gave them his name.

Q Uh-huh. Did you tell him, "Hey, man, I'm going to tell them."

A No. I didn't say I'd give him no money.
No.

Q I didn't -- well, I mean, it's good to know you didn't tell him you were going to give him any money. But I was just wondering if you -- if you told him, you know, somebody might be trying to find you, or you might get caught up in this.

A Well, the first thing I asked was, "Could I use your name?"

Q Uh-huh.

A And he agreed, you know, you can give my

name to the lawyer.

Q Okay. And he said that was fine?

A Yes, ma'am.

Q Do you know if he has a lawsuit?

A No, ma'am.

Q Other than Mr. McLaurin, have you talked to any of these other gentlemen? And if you need — I mean, these are your discovery responses.

A Well, I know they're mine.

Q Okay.

A James Barnes.

Q When did you talk to him?

A Maybe about three months ago. James Hayes.

Q Okay. When --

A Same day.

Q Do you see him at -- did y'all have coffee together at someplace?

A No

 ${\sf Q}$  Or did you -- were they someplace together and you saw them?

A Well, no. One I see all the time. And one I was at one house, and he got a phone number. And I talked to both of them at the same time.

Q Who do you see all the time?

A The one I see all the time, Larry McLaurin.

Q Okay. Does he live close to you?

A No, he live out in the county. But he -- he drives trucks, also. He come -- comes by the house every -- you know, all the time.

Q Okay.

A You know, I stay close to the -- the highway.

Q And he gave you these gentlemen's numbers?

A No.

Q Okay. I'm sorry. Tell me -- I feel like I'm playing a game.

Tell me who gave you the number and how that all happened.

A I got Larry McLaurin's number --

Q Uh-huh.

A -- because I seen him.

Q Uh-huh.

A I went to James Barnes' house, got his number. James Hayes, some people that worked at -- at Howard where I used to work at, that's -- that know him, and they got me the number. John Cole, he stay in Ellisville. So I see him a pretty good while. About the -- all of them are around the same time when I, you know, got their numbers.

Q And from what I understand here today, we're

<del>- 144</del>

10 11 12

1

2

3

4

5

6

7

8

9

12 13 14

16 17 18

15

19 20 21

22 23 24

1

8

14

15

20 21 22

23 24

25

not claiming any exposure at Howard Industries?

- No, ma'am.
- Okay. Would -- what could these gentlemen tell me if I called them on the phone?
- Whatever you asked them. What -- what kind of work I did, did I do that at Howard, that's all. Whatever. They probably could say what I did at Howard. They can't say what I did at anywhere else.
  - Q Okay.
  - Besides John Cole. Α
  - Q Okay. What can Mr. Cole tell me?
  - Α I worked with him at Gordon Myrick.
  - Q And you have his phone number?
- That's been a long time. I'll give it to Α them in my discovery. I don't -- I don't know if I laid it down or whatever, but I had -- I don't have it.
- Okay. I'm kind of going to jump around a little bit because I'm going to ask some questions that I wrote down while you were talking to your

Gordon Myrick, you worked '86 to '91. And we were trying to get a year down for that. And your counsel said you think this blasting that was in Mr. Myrick's house was at the second half. And you

# Filed 07/06/10 Page 37 of 48

agreed, you thought that that was correct.

What does "the second half" mean?

It -- it might be second half of the year, you know, if there were two years in between there. You know, from one year -- you know, what is it, '94 to what? '93 to '94, something like that.

MR. GIVENS: No. Look in there and see when you worked.

> THE WITNESS: Wasn't it '94 to '95? MR. GIVENS: No.

Α Oh, Gordon Myrick?

BY MS. SKIPPER:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

147

- Q Yes.
- Α I'm looking at Tom Pittman. I'm sorry. From '86 to '91.
- Do you have any idea in those five years when that job would have been?
  - All I remember, it was in the summertime.
  - Q Summertime?
  - Α Uh-huh.
- Q But it could have been at any point during those five years?
  - Yes, ma'am.
- And am I correct that you worked at Gordon Myrick -- you testified here today that you worked

there for four days?

- Α Yes, ma'am.
- Q Okay.
- Α At the house.
- Do you remember your testimony back in 2004? You were asked how long you worked there, and your response was, "I worked there two days."

Is it possible you worked at Gordon Myrick's for two days blasting that house or around blasting at the home, rather than four?

- I believe it was four days.
- Q Okay.
- Because we got -- all we had to do the ceiling, walls and the floor.
- Okay. I'm going to and this is Page 34 of your deposition. You're welcome to look at it.

Can you tell me why you believe now, six years later, it was four when in 2004 you said it was two?

MR. GIVENS: He told you that's all he remembers. It's asked and answered. BY MS. SKIPPER:

- Q You can answer.
- Α Ma'am?
- Q You can answer.

MR. GIVENS: Well, he's already answered. He said because -- that he thinks it's four because he had to do walls, ceilings, and floors. So he's answered your question. BY MS. SKIPPER:

- And you talked about that in 2004. In fact, correct me if I'm wrong -- that this was wood that they pulled out of an old school.
  - Yes, ma'am.
- And from the -- that deposition testimony the house was just framed up, and that y'all were actually putting the wood on the walls and on the floor. Is that's correct?
  - A Yes, ma'am.
- Okay. And I guess what I'm getting at -and you tell me, you know, there really isn't a reason, you just think now it's four instead of two. Why -- you were very definitive in 2004. And you said, "I was there for two days." And now you're telling me that you think that you were there for four days.
  - Α Well, I believe it was four days.
  - Why do you believe that now? Q
- Time wise, you know, I forgot about how big it was. It was just a pretty big house. And like I

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

said, I believe it was four days.

And am I correct that you didn't stay there for the whole job?

A What do you mean, to finish -- the start to finish?

That's right. It may have been a big house, but you testified that you didn't stay there the whole

Until we got it cleaned up. You know, I helped and sweep it out after we -- and then I had to go to another job in Warren State.

You wouldn't have done the whole house?

Yeah, we did. We did. We sandblasted the whole house and started cleaning up. Then they moved me to go to another job. And left one man up there to finish it up because we were 90 percent finished. And they said he can do it by himself because he stay up that way. So we had to go the way I had to go.

Okay. And in that -- on that same piece of paper, you told me that you didn't stay until the job was finished. And that's when the statement --

I did. Maybe I didn't understand what you were saying.

Okay. Would you mind reading the question and the answer and telling me what was confusing? And those actually aren't my questions. They were someone else's questions

> I don't know. I don't know. Α

In that same vein, today I have heard you now tell me that you remembered that it was Clark Sand at the Myrick job.

Yes, ma'am.

Is that correct? 0

Α Yes, ma'am.

Q Do you remember testifying to me in 2004 that you didn't remember any writing on the same bag?

I didn't

Q You did?

Α I don't remember

Q Okay. I'll show you Page No. 116 from your 2004 deposition.

But I know it was Clark Sand, though.

Okay. Can you explain to me why now, six Q years later, you think it was Clark?

Maybe I misunderstood the question.

Okay. Can you read the questions and tell me what was confusing about them?

Α Okay. I don't know.

Okay. In fact, the questions were, "Do you know what any of the writing said? Do you remember?"

151 And your answer -- and please follow along, was, "All it said was sandblasting. I'm not for sure what -what did it say." The next question is, "But you do remember it said sandblast on it?" Answer: "Sand."

So I -- I guess I'm asking for an explanation of -- of why your memory is better now --

A Uh-huh.

-- than it was then.

Well, you know, it -- it might have came at a -- at a wrong time when I answered the question. It might have been later that day. I might have been tired.

And we deposed you for two days. And in the second day, you said the same thing.

Uh-huh.

MR. GIVENS: He's answered your question.

I know it's Clark Sand.

MR. GIVENS: I understand you're not. satisfied with his answer, but you made your point. Move on to the next point.

MS. SKIPPER: Okay.

BY MS. SKIPPER:

In follow-up to your statement, when did you remember that it was Clark Sand?

I don't know.

You don't remember any point when you told anybody it was Clark Sand?

It's just the same picture on this paper right here (indicating).

Where did that picture come from?

It was in some of the books that, you know, we looked at.

And those books, are they the same books you Q looked at in 2004?

I don't know was it the same books that John bought me that were what I had when Foxworth did it. I don't know for sure.

Q Did they look similar?

Some -- some pictures in the book they got, and some pictures in the book they didn't have.

Which one didn't they have?

Α I don't know for sure which one it was.

Which ones did they have? Q

It was a lot of different pictures, you know, was in -- in John's book.

Okay. Well, I guess we will need a listing of what pictures were in John's book.

I don't have that book.

Okay. Well, we would request that those pictures we listed, as well as the products that were

1 2 3

4 5 6

7 8 9

10 11 12

13 14 15

16 17 18

19 20 21

22

23 24

15

16

17

10

23

24

25

1

2

3

11

23 24 25

MR. GIVENS: If you want to depose John Foxworth, you're free to do that. I don't have any knowledge of what he was shown in 2004. I wasn't even licensed to practice law at that time.

MS. SKIPPER: Okay. We've made our request. BY MS. SKIPPER:

- I want to talk about the time that you were at Pittman. Where exactly was this tank that was being worked on?
  - It was in Heidelberg.
- Heidelberg. Is that tank still there in Q Heidelberg?
  - Α I have no idea, ma'am.
  - When's the last time you saw the tank? 0
- The only time I saw it is when we worked on it. I hadn't never been back on that site.
- And we were talking about that site at your last deposition. We talked about -- it was a great description. You gave me a visual that those steps were like the barbecue grates. That they were steel, but like --
  - Yeah.
  - Q -- open steel.
  - Α Yes, ma'am,

Q Is that correct?

A Yes, ma'am.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

155

Q And today you've told me that you remember Clark Sand at Tom Pittman -- is that the name, Tom Pittman -- today. But I'm going to read to you -- and this is on Page 14 -- the question back in 2004. And these were my questions.

"Can you tell me who the minor manufacturer of that -- those sandbags were?" Your answer, "No. I'm not for sure." Question: "Did you ever see any warnings on the sandbags at Pittman?"

"Not as I know of" was your answer. "Is that a you don't remember them?" Your answer was, " $\mathbf{T}$ 'm not -  $\mathbf{I}$  don't remember them."

And I'll show you that page just so you'll know that I read that correctly.

Can you explain to me why you could not remember in 2004 that it was Clark, but in 2006 you now say there was Clark at Tom Pittman?

- I guess he got a better picture than what they had.
- Okay. And you think that -- and I'll show it for the camera if they want to zoom in on it.

This is a partial bag. Is that correct?

Yes, ma'am.

You have it in front of you. In fact, it's Q not a full bag, is it?

- Α No, ma'am.
- What else is on that bag? Q
- Red writing.
- What else is on it? Like, what's missing that is not on that bag in that picture? Is there anything else on that bag?
- All -- it just got "Clark" on it and the warning.
- Q Okay. Is -- there's a big hole in the middle. Is there something that's in the middle?
  - I guess sand.
- Q How about on the back, is there anything on the back of that bag?
  - Α I don't know.
  - Are there any pictures anywhere on that bag? Q
  - Α No, ma'am.
  - Q Any logos?
  - Α No. ma'am.
  - Q Phone numbers?
  - A Not that I see.
- Anywhere where it says where it came from? And I'm not talking about the picture, I'm talking about an actual Clark bag.

Α Oh. Oh, okay. I'm sorry. I'm sorry. I'm sorry.

Q Okay. Can you answer any of those questions?

- Α No, ma'am.
- And you still have that testimony I gave you, Page 14, I believe. And then I asked you, "Did you ever read a warning?" And you then say not as you remember.

Can you explain to me why now you've testified that you did read the warning on the Clark bag?

- A I don't know, ma'am.
- At any point, did you tell anybody that you Q remembered there was a Clark bag at Pittman?
  - No. I don't remember telling nobody.
- Q At any point, did you tell anybody that you remembered there were warnings on a Clark bag that you read?
  - Α No, ma'am.

MR. GIVENS: Objection. Actually, he told you that today saying he has told somebody that. BY MS. SKIPPER:

- Q Before today, did you tell anybody?
- Α No, ma'am.

- Do you have any memory of telling anybody, before today, those things that I asked you?
  - No. ma'am.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

Okay. And then in that same vein -- you can put that down -- I asked you again -- this is on Page 16. And I'll be glad to show it to you, as well.

"Over the time that you've used sand in your work history, did you ever stop and read the warnings that were on the bags?" Your answer was, "No."

Do you actually remember reading a bag of sand's warnings?

- Α I might not have read every bag.
- Q
  - You know, I do remember reading a bag. Α
  - Q
- I'm not like I said, I don't remember reading every bag that I touched. But I do remember the warning.
- Okay. The word "warning" gets your attention, doesn't it?
  - Sure. It's supposed to.

_	tan			130
Q	What does the word "warning" n	nean ·	to '	you?

It -- it lets you know different things about this item.

Filed 07/06/10 Page 40 of 48

- Okay. And if it says, "Warning: Contains free silica. Do not breathe dust. May cause delayed lung injury, silicosis. OSHA approved respiratory equipment should be worn."
  - Right.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

159

- Does that sound familiar to you? Q
- That's why I had a dust mask on.
- Q Okay. Do you remember reading that warning?
- Α I could have
- But you can't -- could you swear before a Q jury that you've read that warning?
- I might not have read the whole thing. I --I read some of it.
  - What part did you read? Q
  - Α About the silica.
  - Q
- And then I didn't I didn't know what that Α means.
  - Q Did you go ask anybody?
- No, I didn't ask. It wasn't but two of us Α out there.
  - Q Okay. Two of you out where?

Q At Gordon Myrick. How about out at Pittman?

- Α Didn't ask nobody.
- Q Okay.
- You know how it is. You got to get the job done. Go ahead and do it. Come on, you know.
- You don't have time to read every warning on every product?
  - Yes, ma'am.
- Why do you believe that you have read part of that warning now, and you never said anything about that to me or to anyone else that was there in 2004?
  - Repeat the question again, please.
- Okay. Why do you now believe you've read part of that warning when in 2004, myself and other people asked you about it --
  - Uh-huh.
- -- and you wouldn't say anything about it? In fact, you very definitively said no, you didn't read it.

MR. GIVENS: Objection. He said -actually, he testified he didn't remember whether or not he read them, and then you kept pressing the issue with a previous counsel that didn't object properly. And you finally got that answer you wanted.

MS. SKIPPER: I'm objecting to your --MR. GIVENS: So I'm going to object to the mischaracterization of his testimony. And I'm objecting now because you're repeatedly badgering him about these questions in his previous testimony. He's already explained to you that he's remembered now. You've made your points. Move on to your next question.

MS. SKIPPER: I object to the speaking objection and any kind of characterization. BY M5. SKIPPER:

Q I certainly hope I'm not, you know, badgering you. I'm certainly not being rude. I'm trying to simply get an answer as to why we spent two days -- and, Mr. McGillberry, I will tell you this: I remember you very definitively. And I remember you because I had found out --

MR. GIVENS: I'm objecting to your commentary on the record. Do you have a question?

M.S. SKIPPER: Okay,

MR. GIVENS: Are you through objecting, or commentating, or do you have a question?

MS. SKIPPER: I'm getting to my original question.

MR. GIVENS: Then ask the question.

When we were sandblasting at Gordon Myrick.

Α

16 17 18

19

20

21 22 23

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

BY MS. SKIPPFR:

Q That I was having my first child the day before we deposed you the first day, and I was very sick, so I hung on every word you said. So my memory is that we asked — and the transcript will speak for itself, certainly -- several times regarding warnings. And each time you said, no, you didn't read them. No. you don't remember seeing one. No, no, no, no, no.

Why now are you testifying differently? MR. GIVENS: I'm going to object to asked and answered

Like I said, I might not have read all -all of it, you know, some of it I did. BY MS. SKIPPER:

Do you have a reason why you're testifying Q differently?

- No, ma'am. I had just seen it
- I'm sorry? Q
- I'd just seen it -- seen the warning on the bag.
- Seen it -- seen it where? MR. GIVENS: He said he saw the warning on the bag. You've made your point, Jennifer. You're going over the same stuff over and over. He's answered your question. Move on to your next topic.

BY MS. SKIPPER:

The -- is the warning on this product the warning that you remember, that you've identified that's in Exhibit No. 2? Is that it?

Filed 07/06/10 Page 41 of 48

Yes, ma'am.

Q And that warning says, "Warning: Contains free silica. Do not breathe dust. May cause silicosis, delayed lung injury. OSHA approved respiratory equipment should be worn."

At any point, did you ask anyone about that?

- No, ma'am. That's why I said I had a dust mask on, and there's two of us there.
- Okay. Did you ask anybody if that was OSHA Q approved?
  - Α No, ma'am.
  - Q Do you know if that's OSHA approved?
  - Α No, ma'am.
  - Q But you know what OSHA is?
  - Α Yes, ma'am.
- Q Okay. Lots of our products come with warnings. It seems like everything these days comes with a warning. Do you stop and read all the warnings that come like with your VCR or your --
  - No. ma'am.
  - Q -- TV?

No, ma'am. Q On your McDonald's cup of coffee? Α No, ma'am,

In that same deposition, the question was asked, and I'm quoting, "But what piece of equipment or what type of material do you associate the name Sandstorm with, with regard to sandblasting?" And your answer was, "It was on the bag." The question -and these aren't my questions, it was another defense counsel -- "On the bag?" And your response was, "Uh-huh."

Do you remember using a Sandstorm product?

- A No, ma'am.
- So you don't now believe that the word Sandstorm was on any of the bags?
  - I don't know.
- When you were testifying earlier, you said something about when y'all were working on the house that you were outside. Is that correct?
  - Yes, ma'am.
- So how did that work? You were -- the pot, they stayed outside of the frame of the house?
  - Yes, ma'am.
- And the blaster was actually inside with the Q wood?

A Yes, ma'am,

Q So how far away was that -- was -- was the pot from the end of the hose?

End of the hose where the -- the man is holding sandblasting?

> Q That's right.

I think it was at about, what, 25-foot hose Α or more.

- Q Do you know what a PSI is, if I said that?
- That's how much pressure. Α
- Right. Good. Do you know what PSI was being used for blasting the wax off that wood?
  - I know it was a lot of pressure. Α
  - It was a lot of pressure? Q
  - Yeah, that's PSI. That's what it's for.
  - Yeah, It's -- it's pounds per square inch. Q
  - Α Uh-huh.
  - That's right.

MR. GIVENS: She's asking if you know the number. You either know the number of the PSI or you don't.

No, ma'am,

BY MS. SKIPPER:

Okay. So you don't know what they were actually -- the force that was being --

163

1

11

12

13

14 15

16 17

18 19 20

21 22 23

24

25

23 24

# Case 2:10-cv-00159-KS-MTP Document 8-17 Filed 07/06/10 Page 42 of 48

1 No, ma'am. 2 Q -- blasted with? 3 Α No, ma'am. 4 We've talked about your lung problems, and 5 you told me that you had some back problems because of 6 that accident. What other health problems do you 7 have? 8 I got bad knees. I had a knee replacement. 9 You need a knee replacement? 10 I done had a knee replacement. They added Α 10 11 ligaments to both sides of the same knee before the 11 12 knee replacement. 12 13 Q Yeah. You were walking with a cane in 2004. 13 14 Is that right? 14 15 Α Uh-huh. 15 16 Q Do you not have a cane anymore? 16 17 Unh-unh. 17 18 Q No. Okay. 18 19 I walk with it when I'm really walking 19 20 further. But when I'm real close somewhere -- it's 20 21 short where I don't need it. I don't -- I don't walk 21 22 with it. 22 23 And -- and back then, I think you were 23 24 walking for exercise ten minutes a day or so? 24 25 I'm walk -- walking more than that now. 25

Α Yes, ma'am. Q You do still walk? Yes, ma'am. I kind of get a little bit more A every day. Q What are you up to now? How long do you walk?

A About a mile.

Okay.

Q

1

2

3

4

5

6

7

8

9

1

2

3

4

5

6

7

8

9

Q Do you just walk your street or do you have a treadmill?

No. I just walk my street. A,

Q Okay. We have your knees and your back. What other health problems do you have?

That's all, besides the asthma.

Q When were you first diagnosed with asthma?

I'm not sure what -- what year was it. Α

Were you a child or were you an adult? Q

Oh, it was after I was, you know, diagnosed with sarcoidosis.

Do you have high blood pressure or diabetes? Q

Α

Q Have you ever had a stroke?

Α No. ma'am.

Q Seizures?

I fell out one time in church.

1 Q When was that? 2 Α Been a couple years. 3 Q Did the doctor tell you what was wrong? 4 They couldn't find nothing wrong. Α 5 Q Do you have any heart problems? 6 Yes, ma'am. I've got a -- I take a heart --Α 7 for the heart a blood pressure pill. 8 Have you ever had any kind of irregular 9 heartbeat, angina? 10 No. They said my heart was pretty good. Α 10 11 Q And you don't smoke? 11 12 Α No, ma'am. 12 13 Q Have you ever smoked? 13 14 No, ma'am. 14 15 Have any of your employers -- and that is 15 not just the ones we've talked about today, but also 16 16 your truck employment -- have any of your employers 17 17 18 ever given you a medical evaluation? 18 19 Α Unh-unh. 19 20 Q No? 20 21 MR. GIVENS: You've got to speak up. 21 22 Oh. No, ma'am. 22 23 THE WITNESS: Can we take a break? 23 24 MS. SKIPPER: Yes. I'm almost through. 24 25 That will be good news to you. 25

THE WITNESS: Huh? MS. SKIPPER: I said I'm almost through. THE VIDEOGRAPHER: Going off the record. The time now is 2:28. (Off record)

THE VIDEOGRAPHER: Back on the record. The time now is 2:36

BY MS. SKIPPER:

Q Mr. McGillberry, I just have a few more questions for you.

Did it make you curious that OSHA actually regulates and says what you can and cannot wear around certain products?

Did I know that?

Would it make you curious? Did you know, and would you be curious if -- if they said that?

Well, I -- I thought that was OSHA's job. You know, when something's -- it's too dangerous, you know, they usually have something -- something there.

Okay. Q

Like on the pots. Α

Q Okay.

You know, should -- should, you know, let you -- it just like at a job site. You -- you've got the OSHA rules right here. You can't do this, you

168

6

11

17 18 19

16

20 21 22

23 24

25

can't do that. But it wasn't no -- no rules or, you know, regulations on that job besides what was on the sand.

Q Where have you seen those OSHA rules being posted?

- Α Apache, North Carolina.
- Q And if memory serves, there was a bad accident in Apache --
  - А I was there.
  - Q -- and OSHA actually came on out.
  - I was there. Α
- Have you seen OSHA in -- on any other job sites other than that wreck being on a job site?
  - Unh-unh. That's the only one.
- Did you know that OSHA says what you can and Q cannot wear around sandblasting sand?
  - Yes, ma'am.
- Q Do you know what you can wear around sandblasting sand?
- No, ma'am. I do not know what all you need A to wear.
- Okay. Do you think your employers should Q have known?
  - I think they should have.
  - Do you think that your employers should have Q

supplied you with a safe workplace?

A safe workplace? I thought it was safe where I was.

Q So you would expect that your employers keep a safe workplace for you?

- Yes, ma'am.
- . If there were any OSHA violations by your employer, would you find fault with your employer for those violations?

MR. GIVENS: Objection. You're asking for a legal conclusion.

BY MS. SKIPPER:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Would you fault your employer? Would you think that was something he shouldn't have done?

MR. GIVENS: Objection. Complete lack of foundation. There's no -- besides an accident where OSHA showed up -- OSHA showed up, you have no -there's no violations in the record.

MS. SKIPPER: Okay.

MR. GIVENS: There are no -- again, then there's no foundation for that question.

M5. SKIPPER: I tell you what, we'll make that clear.

BY MS. SKIPPER:

Now, you told me that you wore a dust mask

when you were around some sandblasting sand.

- Α Yes, ma'am.
- And while there was sandblasting going on. Q
- Α Yes, ma'am.
- And OSHA says you can't do that. It says you're not supposed to wear that when you're around sandblasting.
  - I didn't know that.
- If there were violations, and that is a violation, would you fault your employer for having that happen?
- What you're saying is if that were wrong, and my boss man knew it was wrong, and I didn't know
  - Q Right.
  - Α -- do I need to fault my boss man?
  - Yep. Do you think he's partly to blame?
- If it was a better dust mask, I guess he figured it was okay.
  - Q Okay. And OSHA says --
  - It was ---
  - Q I'm sorry, go ahead.
- Now it was, you know, like this. He puts you out to do that job, and I guess he think that what you had -- the equipment to use with it, it's okay to

use it.

- Q And OSHA says you can't do that.
- A I didn't -- haven't heard of that. Never heard of it.
- But your employer has an obligation to know what OSHA says you can and cannot do.
  - Uh-huh.
- If he did something OSHA said you can't do, would you blame him for not doing what OSHA said you had to do?
- Well, if I'd have heard it. OSHA said you can't, you know, use that, I'd have -- I'd have known. But I didn't see nothing like that.
- And we're not talking about you. You know, OSHA actually governs the employer.
  - Yes, ma'am.
  - Q And trying to keep the workplace safe.
  - Uh-huh. Α
- And there are laws that are quasi laws. If OSHA's regulations were that you could or could not do certain things with your job --

MR. GIVENS: I mean, it's -- you're borderline -- this is borderline expert questioning. I mean, you've made your point with these questions. He doesn't understand. He's never seen -- you have no

11

12

13

20

10

24

25

foundation in this regards to these questions. I just -- you just need to move on from this point. BY MS. SKIPPER:

Q And I guess I'm just trying to get an answer to my question. I'm -- I think each time you've -you've told me about what you -- you did and didn't know. And if you say you don't know, that's fine with regard to the employer.

But if your employer didn't do something that OSHA said they should have done, would you think that your employer was wrong for doing that?

- I got a question to ask.
- Okay,

MR. GIVENS: No. Just let her ask the question, please. I mean, if you don't understand the question, you can ask her to rephrase. If you don't know, say I don't know.

I don't -- I don't know. BY MS. SKIPPER:

Q Okay. What part of that don't you know? You don't know if you would fault your employer?

MR. GIVENS: He answered your question. He said he doesn't know. You asked a question. He said, "I don't know."

MS. SKIPPER: Okay.

### Filed 07/06/10 Page 44 of 48

MR. GIVENS: There you go.

BY MS. SKIPPER:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Have you talked about your testimony, at any point today, outside of this room?

- No, ma'am,
- When did you get here today? Q
- A I think sometime after eight.
- Q Sometime after eight?
- Α Yes, ma am.
- Q Did you meet with your attorney?
- A He met me at the door.
- Q Okay. And until you walked in this room, you were meeting with your attorney?
  - Well, we stayed until y'all got ready.
- Q What medical expenses do you relate to silica exposure that you plan on claiming?

MR. GIVENS: We're going to supplement that. And, I mean, I don't think he can sit here today -and I think it'd be a lot cleaner for us to submit the bills to you and us argue over whether they're related as opposed to having a layperson talk about them. And we'll be claiming all medical expenses we can relate to his silica-related injuries.

MS. SKIPPER: So you're telling me he's not going to testify independent of those bills?

MR. GIVENS: Any of -- no, of the bills, no. At trial, he'll -- can we go off the record for a second?

THE VIDEOGRAPHER: Going off record. Time

(Off record)

THE VIDEOGRAPHER: We're back on the record? The time is 2:44 p.m.

BY MS. SKIPPER:

is 2:44.

cancer?

You heard our discussion. I think we will wait until -- we've asked for your medical bills in discovery. And we haven't gotten those yet, but your attorneys assured us they're coming. So we'll hold that question. And if we have anything else to ask you, we'll just reserve our right to come back specifically on that issue.

Has anyone told you that you have lung

- Α No, ma'am.
- Q No one's ever told you --
- Α No ma'am.
- Q -- that you might get lung cancer either?
- No, ma'am. Well, that's what they thought it was at first when they -- they did the biopsy. And then that's what they came up with. They said

sarcoidosis.

- Q Okay. Have you had any change between 2004 and today with your activities?
  - A Yes, ma'am.
  - Q Okay. Tell me about that.
  - Well, I guess, I'm a lots tired quicker. Α
  - Q
- And I just ain't got that get up and go no more.
  - Q Uh-huh,
- I sits a lot, and -- and I guess worry. I worry about this right here.
  - Q Uh-huh.
- I have a lot of problem at night trying to sleep where I -- I can't. That's why I had to end up taking sleeping pills to go to sleep.
- Uh-huh. You went to the doctor about -- now it's been about 90 days, for your checkup. You go twice a year.
  - Α Yes, ma'am.
  - Q What did the doctor tell you then?
- Well, they told me I had, you know, no change, and everything is still the same. And my breathing is -- he said it could get better, but it's -- it's not better. But, you know, he just --

because he had -- I think he had me take some extra 1 2 pills, you know, one time. 3 It looks like you were on some statins for 4 cholesterol -- cholesterol problems? 5 Yes, ma'am. 6 Q You got off those, and you've been doing 7 fine? 8 No. I'm still on cholesterol. 9 You're still on cholesterol? Q 10 Yes, sir. Yes, sir. I'm -- it's a cheaper 11 pill. 12 Okay. Q 13 Where that pill cost me a lot of money. So 14 they just gave me a cheaper pill. 15 Are you on both Medicare and Medicaid? 16 Α No, I'm just on one. 17 Q What are you on? 18  $\mathbf{I}^{\prime}\text{ve}$  got the red and white and blue card.  $\mathbf{I}$ 19 don't know if it's Medicare. 20 Q Medicare? Is it Medicare? 21 Yes, ma'am. 22 That's in relation to your disability, you 23 got on Medicare at the same time? 24 MR. GIVENS: She said, did you get on 25 Medicare because of your Social Security disability,

# Filed 07/06/10 Page 45 of 48

is what she's asking you. BY MS. SKIPPER:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

170

Q Lots of times that happens. And you can make sure that that's with a disability insurance --

Well, they asked me did I want the insurance, and I took the insurance out. Where I would -- don't see it. It just comes straight out of my check.

Do you have any supplemental --

A No, ma'am.

-- insurance? Q

No, ma'am.

MS. SKIPPER: I hate to ask these questions if I don't have to. Are you going to claim any kind of loss of consortium?

MR. GIVENS: I think this will be more properly suited for the wife if we do. Let's reserve those, and I'll let you know. And we'll reopen just for that if we need to. And we'll -- we'll allow you to, you know, sometime prior to trial ask those questions if we're going to pursue that.

MS. SKIPPER: I think those are all my questions, Mr. McGillberry. If you will indulge me like a minute break just to flip through my notes, but I think I covered all my questions.

I think those are all my questions.

MR. GIVENS: Robert, do you have anything? I just have a real brief redirect.

# FURTHER EXAMINATION

#### BY MR. GIVENS:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

John, I'm just going to ask you a few follow-up questions. We're -- we're almost done today. You okay to go forward for just a few more minutes?

Yes. sir.

All right. Earlier Mr. Ireland was asking you about some -- about your location in relation to the sandblasting going on at the oil field in Heidelberg.

Do you recall him asking you about that?

Α

Q And you -- you were tending the pot out there. Correct?

Α

And when you were doing the other work out there -- I think you said you were doing some slab work, too?

We was getting the slab ready to be poured.

Okay. And can you estimate for us within how many feet that was from where the actual

sandblasting was?

Twenty, twenty-five feet.

Okay. Thank you. Q

There was a lot of questions about the dark spot coming through on your mask on the white paper mask you were wearing.

> Α Yes, sir.

Q The AO-1010 right here (indicating).

In regards to that, I think it's clear that there was a dark spot there, but is it true, or was it your testimony that there was also dirt and sand and dust on your face underneath the mask when you got through using it?

> Α Uh-huh.

MR. IRELAND: Object to the form. BY MR. GIVENS:

In regards to the -- you'll recall there's been some testimony today to you about sandblasting at Gordon Myrick's house. Correct?

Yes sir

And I think we've established, now, that the pot was kept right outside the house?

And that's where you tended the pot? Q

180

178

13 14

15

16 17

20

21

22

23

24

25

18 19

14

15

23

24

25

Would you go inside once -- immediately Q after the sandblasting was finished?

Yes, sir.

Q And why would you go inside at that time?

Well, the sandblaster take a break, and I go in there and kind of sweep all the sand up in a -- in a pile.

Q Okay. And would you be -- I -- I don't think we're real clear on this. Would you be standing kind of right outside the door where the pot was or --

Right next to the pot.

MS. SKIPPER: Object to the form.

BY MR. GIVENS:

Okay. I think there was a -- I just want to clear this up because I think there was a little confusion on this. Mr. Ireland was asking you when you were working for Gordon Myrick.

Α Yes, sir,

Q About whether or not you wore a dust mask when you did outside work. And I -- I think I heard you say that you didn't. But I wanted to ask you a little more about that because I thought -- and I'm just going to start with Myrick.

Did you wear a dust mask while you worked

outside at Gordon Myrick?

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

You mean -- when he said outside, I thought maybe they thought I was doing something else outside besides chipping. I didn't -- I didn't wear a dust mask when I'm like cleaning up and stuff, picking up wood and stuff like that there.

> Q Like picking up trash --

Filed 07/06/10 Page 46 of 48

Α Yes, sir.

Q -- on the job site?

Α Yes, sir.

Q But if you were -- so in other words, if you were chipping or jackhammering or doing concrete work outside --

I have -- I have --

Q -- were you wearing something?

Yes, sir. I have a dust mask on. Α

Q

Well, that's what I thought. I thought A maybe he was asking me was I when I worked outside.

And now, we've established that you've worn AO dust masks and 3M dust masks.

Α Yes, sir.

Is that correct? Q

MR. IRELAND: Object to the form.

BY MR, GIVENS:

183 Okay. Now, I believe we established that you wore the AO dust mask in Exhibit 3 at Tom Pittman. And then you've also established that you wore it at Daniel Construction.

Yes, sir.

MR. IRELAND: Object to the form. BY MR. GIVENS:

Q Now, I think you got confused when you were being cross-examined.

How often, if you had to estimate, that you -- how often would you have worn the AO mask as compared to the 3M mask?

MR. IRELAND: Object to the form.

Most of the time.

BY MR. GIVENS:

Would you -- would it be fair to say that you wore it at least 50 percent of the time?

MR. IRELAND: Object to the form.

Yes, sir. Α

BY MR. GIVENS:

Okay. And the same goes for wearing the mask pictured in Exhibit 4, the AO-1010 that you wore at Gordon Myrick from the five years that you worked there.

Would it be fair to say that you wore this

mask at least 50 percent of the time?

MR. IRELAND: Object to the form.

Α Yes, sir.

BY MR. GIVENS:

Okay. Thank you. Counsel opposite showed you some testimony in regards to how long it took you to do the sandblasting job at Gordon Myrick. And I'd like to show you a couple of other pages where you testified during that deposition about how long it took you.

On Page 34 of your -- of Volume 1 in your deposition not Volume 2, can you read Lines 11 through 14 for me? Just read the lines on -- I'm sorry. I didn't point that out to you very well. You're going to read that line through that (indicating) line. Just read it straight like it says.

Α What do you mean, read it out to you?

Q Yeah, read it out loud.

Oh, okay. Number --

Lines -- Line 11 through 14. Here, let me do it this way. I'm going to read it to you and see if you can follow. And I'm just --

I ain't got my glasses with me.

Oh, okay. Well, then it makes sense. Okay. I'm going to start on Page -- I'm going to read Page

13

14

20 21 22

19

24 25

sir."

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

34 starting Line 2 where he goes, "Were you around any sandblasting at Southern Touch?" And you said, "No,

And you still stand by that, don't you?

- Α None at Southern Touch.
- And "Did you do any cement or concrete work at Southern Touch?" And you said, "Now, Southern Touch and -- and -- and H. Gordon Myrick, now, I was working both jobs at the same time."
- Listen, what -- what I was saying was, I was working for Southern Touch on the weekends.
  - Q Okay.
- And I was working for H. Gordon Myrick Monday through Friday.
  - Q Okay. And that's fine.
- Α And --
  - Q And then -- and then we'll go on -- we'll -that's fine. But then you said -- right after that you said, "One of them was a weekend job, which was the Southern Touch. And one of them was like Gordon Myrick was, you know, five days."
    - Yes, sir.
    - Q "Southern Touch was just the weekend."
    - Α
      - MR. GIVENS: And you know what? I'm going

### Filed 07/06/10 Page 47 of 48

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

to withdraw that whole line of questioning because I think I misread that question.

MS. SKIPPER: Yeah. It's wrong. BY MR. GIVENS:

But let's go on to -- on Pages 102 to 103 on Volume 1 in your deposition.

In reference to Mr. Myrick's house, they were asking you what all you were doing. And you said, "You know like off the floor, that tongue and groove wood, you know, I'm taking the wax off of it." And he asked you, "How long did it take y'all to take the wax off the wood that y'all used to build the house." And you said, "It was — it was quite awhile. I'm not for sure what -- how many days or weeks it took. But it was quite awhile."

Now, in your opinion, would quite awhile be at least four to five days like you've testified here today?

> MS. SKIPPER: Object to the form. MR. IRELAND: Object to the form.

Yes, sir.

BY MR. GIVENS:

Okay. And just because you said two days later in the deposition, I mean, you think it was longer than that now. Right?

187

Yes, sir.

MS. SKIPPER: Object to the form and the characterization, and the testimony.

MR. GIVENS: I can't remember if he said it was three to four or four to five. So shoot me. The record will speak.

MS. SKIPPER: Okay.

#### BY MR. GIVENS:

- I understand that you may not read a warning that comes with a VCR. Is that correct? You may not read a warning that comes with a TV. Is that correct?
- But if you're outside doing a job and using a product such as that (indicating), did you -- did you read the warning on the bag of sand that's here?
  - Yes, sir.

MS. SKIPPER: Object to the form.

#### BY MR. GIVENS:

And as you sit here today in 2010, is this bag of sand right here (indicating)? This Clark Sand, is that the sand you used at Tom Pittman in the '70s and at Gordon Myrick in the '80s?

MS. SKIPPER: Object to the form.

BY MR. GIVENS:

And do you know -- do you have any knowledge whether Tom Pittman -- the supervisors out there or Tom Pittman himself or Gordon Myrick or the supervisors out there, had any knowledge of the dangers of silica and sandblasting?

No, sir.

MS. SKIPPER: Object to the form. MR. IRELAND: Object to speculation.

#### BY MR. GIVENS:

- Q Did they ever tell you that it was dangerous?
- Did -- did they ever tell you that concrete work and the chipping up concrete and creating dust was dangerous?
  - Α No, sir.
- Did they ever tell you that could cause -create respirable silica?
  - Α No, sir.

MR. GIVENS: That's all the questions I

have.

MR. IRELAND: I just have one --MR. GIVENS: No follow-up. We're done. MR. IRELAND: -- mainly because I'm confused

Yes, sir.

23 24 25

about it. MR. GIVENS: I don't -- I don't think you heard me. We're not having any follow-up. It's done. MR. IRELAND: Well, I'm -- it's --MR. GIVENS: You had your -- I asked you before I stopped. I didn't go outside of y'all's cross. It's redirect, and I stayed within my bounds. We're not going to ask him about that. MR. IRELAND: All right. Let's just go off the record for a second. THE VIDEOGRAPHER: We're now off the records The time is 2:59. (Off record) THE VIDEOGRAPHER: We're back on the record4 The time is three o'clock MS. SKIPPER: Mr. McGillberry, this is not directed at you. This is simply for the record. We had filed a motion to quash of full protective order. It was obviously denied so we appeared here today. We reserve our right to reurge that and/or motion to strike based on the testimony here today. MR. IRELAND: I join. MR. GIVENS: And I object to that objection being untimely. It should have been done prior to the deposition starting. That's it.

THE VIDEOGRAPHER: This concludes the deposition. The time now is three o'clock p.m. (Deposition concluded)

#### 

#### CERTIFICATE OF REPORTER

I, CARRIE L. BENOIST, in and for the State of Mississippi, do hereby certify that the above and foregoing pages contain a full, true and correct transcript of the deposition of JOHN MCGILLBERRY taken in the aforenamed case at the time and place indicated, to the best of my skill and ability.

We also certify that the witness was placed under oath to tell the truth and that all answers were given under that oath.

We also certify that we have no interest, monetary or otherwise, in the outcome of this case.

This the 26th day of May, 2010.

CARRIE L. BENOIST, CSR #1744

	Page 1
1	Page 1 IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT
2	LIKST OODICIAL DISTRICT
3	JOHN MCGILBERRY ) PLAINTIFFS
4	vs. ) CIVIL ACTION NO. 2007-16-CV5
5	PANGBORN CORPORATION, ) ET AL. ) DEFENDANT
6	ET AL. ) DEFENDANT
7	
8	ORAL DEPOSITION
9	STEVEN EARL HABER, M.D.
10	JUNE 25, 2010
11	
12	
13	ORAL DEPOSITION OF STEVEN EARL HABER, M.D., produced as a
14	witness at the instance of Defendant American Optical
15	Corporation, and duly sworn, was taken in the above-styled and
16	numbered cause on the 25th day of June, 2010, from 10:12 a.m.
17	to 12:57 p.m., before Dana Richardson, Certified Shorthand
18	Reporter in and for the State of Texas, reported by
19	computerized stenotype machine at the Skyline Suites, 11757
20	Katy Freeway, Suite 1300, Houston, Texas 77079, pursuant to
21	the Mississippi Rules of Civil Procedure and the provisions
22	stated on the record or attached hereto.
23	Job No. 1603-95394
24	
25	EXHIBIT "R"

	Page 5
1	(Witness sworn)
2	MR. IRELAND: Let the record reflect that this
3	deposition is being taken pursuant to notice and the
4	Mississippi Rules of Civil Procedure.
5	You know, actually, I haven't I haven't
6	heard from anybody from Clark Sand. Do you know if they're
7	going to participate in this?
8	MR. SMITH: They settled.
9	MR. IRELAND: Okay.
10	STEVEN EARL HABER, M.D.,
11	having been first duly sworn, testified as follows:
12	EXAMINATION
13	BY MR. IRELAND:
14	Q. Dr. Haber, my name is Robert Ireland. I'm here on
15	behalf of American Optical Corporation. We met yesterday in
16	the deposition in another case.
17	What did you bring to the deposition with you
18	today, please, sir?
19	A. My entire file on Mr. McGilberry.
20	Q. Okay. Can you go through the file and tell me what's
21	included?
22	A. Sure. I've got two CDs with X rays. I have another
23	CD with a variety of medical records and reports and such.
24	I've got probably about 50 pages or so of printed-out medical
25	records from the CD of medical records. And there's actually
i	

Page 67 1 Q. Can you state to a reasonable degree of medical 2 probability whether Mr. McGilberry would have developed any 3 silica-related lung disease if you took Mr. McGilberry's work 4 around sandblasting away? 5 Α. I think he -- the -- the situation would have 6 remained as it did and that he would have still gotten 7 silicosis. 8 0. Now, the other activities that he performed at these 9 three employers, Pittman Construction, Daniel Construction and 10 Gordon Myrick, the other activities that exposed him to 11 respirable silica, are those detailed in your report? 12 Α. Yes, sir. 13 How often did he work around concrete and cement at Ο. 14 Pittman during an average week? 15 He was -- he told me that he was chipping concrete on 16 a daily basis using an air jackhammer, but it was about 25 to 17 50 percent of his time. So, I guess, if you're looking at a 18 40-hour week, somewhere between 10 hours and 20 hours a week. 19 0. And, I mean, at the end of the day, you -- you claim 20 that his work around concrete and cement was an appropriate 21 amount of exposure to cause his silicosis, right? 22 Yes, sir. Α. 23 Q. Are you relying on any other expert's testimony or 24 opinions to come to that conclusion?

Other than, you know, what's in the literature and

Α.

#### Robert Ireland

From:

Jennifer J. Skipper [SkipperJJ@fpwk.com]

Sent:

Tuesday, June 08, 2010 4:32 PM

To:

Robert Ireland

Subject:

RE: McGilberry

Attachments: Agreed Order of Dismissal for multiple defendants FILED 05.28.10.pdf; ATT2068435.txt

There in this order

Jennifer J. Skipper

Forman Perry Watkins Krutz & Tardy LLP

----Original Message----

From: Robert Ireland [mailto:rireland@watkinseager.com]

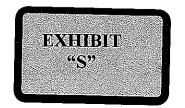
Sent: Tuesday, June 08, 2010 4:29 PM

**To:** Jennifer J. Skipper **Subject:** McGilberry

Jennifer,

One more thing. We are going back over pleadings to make sure we have everything. I didn't see a dismissal with or without prejudice as to Precision Packaging. Is that in the works (or perhaps even done awhile ago)?

Robert Ireland Watkins & Eager PLLC Direct: (601) 965-1829



#### IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN McGILBERRY

PLAINTIFF

V.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, et al.

**DEFENDANTS** 

#### AGREED ORDER OF DISMISSAL WITHOUT PREJUDICE

This matter came before the Court on the joint motion of Plaintiff John McGilberry and Defendants Ash Grove Cement Company, Clemco Industries Corporation, Custom Aggregates & Grinding, Inc., Hanson Aggregates, Inc. f/k/a Hanson Aggregates Central, Inc. f/k/a Pioneer South Central, Inc. f/k/a Pioneer Concrete of Texas, Inc., Humble Sand Co., Inc. d/b/a Humble Sand & Gravel, Inc., Parmelee Industries, Inc., Precision Packaging, Inc. f/k/a Quikrete Materials, Inc. and Southern Silica of Louisiana, Inc., to have plaintiff's claims against Ash Grove Cement Company, Clemco Industries Corporation, Custom Aggregates & Grinding, Inc., Hanson Aggregates, Inc. f/k/a Hanson Aggregates Central, Inc. f/k/a Pioneer South Central, Inc. f/k/a Pioneer Concrete of Texas, Inc., Humble Sand Co., Inc. d/b/a Humble Sand & Gravel, Inc., Parmelee Industries, Inc., Precision Packaging, Inc. f/k/a Quikrete Materials, Inc. and Southern Silica of Louisiana, Inc. dismissed without prejudice. The Court, having considered the motion, and being further advised that the parties to this order are in agreement, finds that the motion is well-taken and should be granted.

IT IS, THEREFORE, ORDERED that the claims of Plaintiff John McGilberry are dismissed without prejudice as to Defendants Ash Grove Cement Company, Clemco Industries Corporation, Custom Aggregates & Grinding, Inc., Hanson Aggregates, Inc. f/k/a Hanson Aggregates Central, Inc. f/k/a Pioneer South Central, Inc. f/k/a Pioneer Concrete of Texas, Inc., Humble Sand Co., Inc. d/b/a Humble Sand & Gravel, Inc., Parmelee Industries, Inc., Precision Packaging, Inc. f/k/a Quikrete Materials, Inc. and Southern Silica of Louisiana, Inc. with each party to begin the party to be a sub-

SO ORDERED, this 27 day of May, 2010.

MAY 2 8 2010

MIN 40 683

AGREED TO:

Edwin S. Gault Jr., MSB No. 10187 Jennifer J. Skipper, MSB No. 100808

FORMAN PERRY WATKINS KRUTZ & TARDY LLP

200 South Lamar Street, Suite 100 Jackson, Mississippi 39201-4099

Telephone: (601) 960-8600 Facsimile: (601) 960-8613

Attorneys for Defendants

Timothy W. Poner, MSB No. 9687 John T. Givens, MSB No. 101561 PORTER & MALOUF, P.A. P.O. Box 12768 Jackson, Mississippi 39236-2768

R. Allen Smith, MSB No. 99984 THE SMITH LAW FIRM 681 Towne Center Boulevard, Suite B Ridgeland, Mississippi 39157 Telephone: (601) 952-1422 Facsimile: (601) 952-1426

Attorneys for Plaintiff

## Porter & Malouf, P.A.

ATTORNEYS AT LAW

TIMOTHY W. PORTER\* PATRICK C. MALOUF 'also admitted in Louisiana

825 Ridgewood Road Ridgeland, Mississippi 39157 Post Office Box 12768 Jackson, Mississippi 39236 Telephone (601) 957-1173 Faesimile (601) 957-7366 www.portermalouf.com JOHN T. GIVENS

May 28, 2010

Jennifer Skipper Forman Perry Watkins Krutz and Tardy Post Office Box 22608 Jackson, Mississippi 39225

Robert Ireland Watkins & Eager Post Office Box 650 Jackson, Mississippi 39205

Re: Vernon Rose Testimony in McGilberry

Dear Jennifer and Robert:

Dr. Rose will testify consistent with his previous opinions regarding your respective products. Robert all testimony, affidavits, and other evidence having been supplied in the *Birmingham* case will be used in this case also since the AO 1010 and AO 1050 are at issue in this case. Therefore, inform Michael Gwin that we will not be changing our theories of the case multiple times. You are now on notice of our claims.

Please let me know if you still wish to depose Dr. Rose in this matter and we will work out some dates. With Kindest Regards, I remain

Sincerely yours,

PORTER & MALOUF, P.A.

John T. Givens, Esq.

EXHIBIT "T"





Lewis W. Neese, M.D. Charles J. Parkman, M.D. Andrew H. Rogness, M.D. Steven W. Stogner, M.D. Herines S. Velasquez, M.D. Walid G. Younis, M.D. (601) 268-5650

August 6, 2009

Mr. Allen Smith C/o Smith Law Firm 681B Town Center Blvd Ridgeland, MS 39157

Re: John E. McGilberry

Dr. Mr. Smith:

Mr. McGilberry has severe silicosis with massive fibrosis. I base this on his significant exposure history to sandblasting during the early 1970s through 1987, and my review of his chest radiographs, including 12/7/2000, 8/22/2001. 11/3/2002, and 10/9/2004. His CXRs also show evidence of asbestosis in the lower one-half lung fields.

If I can be of further assistance, please give me a call.

Sincerely,

Steven W. Stogner, MD

EXHIBIT "U?2

## IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN MCGILBERRY

PLAINTIFF

VS.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, ET AL.

**DEFENDANTS** 

# AGREED ORDER OF DISMISSAL WITHOUT PREJUDICE AS TO DEFENDANT KELCO SALES & ENGINEERING COMPANY, A DIVISION OF POLLEY, INC.

This matter having come before the Court on the *ore tenus* Motion of Plaintiff JOHN MCGILBERRY to dismiss Defendant KELCO SALES & ENGINEERING COMPANY, A DIVISION OF POLLEY, INC., without prejudice from this action and the Court, having been fully advised of the premises of the Motion and knowing that counsel for both parties are in agreement, is of the opinion that said Motion is well-taken and should be GRANTED. It is therefore,

ORDERED, ADJUDGED, AND DECREED that Defendant KELCO SALES & ENGINEERING COMPANY, A DIVISION OF POLLEY, INC., is hereby dismissed without prejudice as a Defendant in the above-referenced action, with each party to bear its own costs. Plaintiff expressly reserves his claims against all remaining Defendants in this action.

SO ORDERED AND ADJUDGED this the

day of

, 2010

厚[[[屋]]

JUN 15 2010

BART GAVIN CIRCUIT CLERK JONES COUNTY, MS

EXHIBIT "W"

#### APPROVED:

Timothy W. Porter, MSB No. 9687 John T. Givens, MSB No. 101561 PORTER & MALOUF, P.A.

Post Office Box 12768 Jackson, MS 39236-2768 Telephone: (601) 957-1173 Facsimile: (601) 957-7366

R. Allen Smith, Jr., MSB No. 99984 THE SMITH LAW FIRM, P.L.L.C.

681-B Towne Center Blvd. Ridgeland, MS 39157 Telephone: (601) 952-1422 Facsimile: (601) 952-1426 Attorneys for Plaintiff Jeffrey P. Fultz, MSB No. 101058 Hal Roach, Jr., MSB No. 102114

WILLÍNGHAM, FULTZ & COUGILL L.L.P.

The Niels Esperson Building 808 Travis Street, Suite 1608 Houston, Texas 77002 Telephone: (713) 333-7600 Facsimile: (713) 333-7601

Attorneys for Defendant Kelco Sales & Engineering Company, a division of Polley, Inc.

## IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN MCGILBERRY

PLAINTIFF

VS.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, ET AL.

**DEFENDANTS** 

# AGREED ORDER OF DISMISSAL WITHOUT PREJUDICE AS TO DEFENDANTS BOB SCHMIDT, INC. AND SCHMIDT MANUFACTURING, INC.

This matter having come before the Court on the *ore tenus* Motion of Plaintiff JOHN MCGILBERRY to dismiss Defendants BOB SCHMIDT, INC. and SCHMIDT MANUFACTURING, INC., without prejudice from this action and the Court, having been fully advised of the premises of the Motion and knowing that counsel for both parties are in agreement, is of the opinion that said Motion is well-taken and should be GRANTED. It is therefore,

ORDERED, ADJUDGED, AND DECREED that Defendants BOB SCHMIDT, INC. and SCHMIDT MANUFACTURING, INC., are hereby dismissed without prejudice as Defendants in the above-referenced action, with each party to bear its own costs. Plaintiff expressly reserves his claims against all remaining Defendants in this action.

SO ORDERED AND ADJUDGED this the

الــ day of

2010

CIRCUIT

FILED

JUN 1 5 2010

CIRCUIT CLERK JONES COUNTY, MS

### APPROVED:

Firmothy W. Porter, MSB No. 9687 John T. Givens, MSB No. 101561

PORTER & MALOUF, P.A.

Post Office Box 12768 Jackson, MS 39236-2768 Telephone: (601) 957-1173 Facsimile: (601) 957-7366

R. Allen Smith, Jr., MSB No. 99984 THE SMITH LAW FIRM, P.L.L.C.

681-B Towne Center Blvd.

Ridgeland, MS 39157 Telephone: (601) 952-1422

Facsimile: (601) 952-1426 Attorneys for Plaintiff Jeffrey P. Julyz, MSB No. 101058 Hal Roagh Jr., MSB No. 102114

WILLINGHAM, FULTZ & COUGILL L.L.P.

The Niels Esperson Building 808 Travis Street, Suite 1608 Houston, Texas 77002

Telephone: (713) 333-7600 Facsimile: (713) 333-7601

Attorneys for Defendants Bob Schmidt, Inc. and

Schmidt Manufacturing, Inc.

# MIN BK 40 PG 707 - 06/14/2010 10:32 AM Eart Gavin, Circuit Clerk, Jones County, Mississippi

## THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN MCGILBERRY

**PLAINTIFF** 

VS.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, ET AL.

**DEFENDANTS** 

# AGREED JUDGMENT OF DISMISSAL WITHOUT PREJUDICE AS TO ALL CLAIMS OF PLAINTIFF JOHN MCGILBERRY AGAINST EMPIRE ABRASIVE EQUIPMENT CORPORATION

This cause having come on to be heard on the joint *ore tenus* motion of the Plaintiff John McGilberry and Defendant Empire Abrasive Equipment Corporation and the Court having been advised that the parties are in agreement as to the dismissal of Empire Abrasive Equipment Corporation in this matter, the Court does hereby:

ORDER AND ADJUDGE that the claims of the Plaintiff John McGilberry are hereby dismissed without prejudice as to Empire Abrasive Equipment Corporation with each party bearing their own respective costs;

ORDER AND ADJUDGE that pursuant to Rule 54(b) of the Mississippi Rules of Civil Procedure, the Clerk of the Court is hereby directed to forthwith enter this Agreed Order, there being no just cause for delay.

So ORDERED AND ADJUDGED this

ay of Jine, 2010

FILED

JUN 1 0 2010

CIRCUIT CLERK JONES COUNTY, MS Agreed as to form and content:

W. MARK EDWARDS, ESQ.

Page, Mannino, Peresich & McDermott, PLLC

759 Vieux Marche Mall

Post Office Drawer 289

Biloxi, MS 39533

Tel: (228) 374-2100 Fax: (228) 374-3838 Counsel for Defendant Empire Abrasive

**Equipment Corporation** 

JOHN T. GIVENS, ESQ.

Porter & Malouf, P.A.

P.O. Box 12768

Jackson, MS 39236-2768

Tel: (601) 957-1173 Fax (601) 957-7366

R. ALLEN SMITH, ESQ.

The Smith Law Firm, P.L.L.C.

681 Towne Center Blvd., Suite B

Ridgeland, MS 39157

Tel: (601) 952-1422 Fax (601) 952-1426 Counsel for Plaintiff John McGilberry

## IN THE CIRCUIT COURT OF JONES COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

JOHN McGILBERRY

**PLAINTIFF** 

٧.

CIVIL ACTION NO. 2007-16-CV5

PANGBORN CORPORATION, et al.

**DEFENDANTS** 

## AGREED ORDER OF DISMISSAL WITHOUT PREJUDICE

This matter came before the Court on the joint motion of Plaintiff John McGilberry and Defendants Ash Grove Cement Company, Clemco Industries Corporation, Custom Aggregates & Grinding, Inc., Hanson Aggregates, Inc. f/k/a Hanson Aggregates Central, Inc. f/k/a Pioneer South Central, Inc. f/k/a Pioneer Concrete of Texas, Inc., Humble Sand Co., Inc. d/b/a Humble Sand & Gravel, Inc., Parmelee Industries, Inc., Precision Packaging, Inc. f/k/a Quikrete Materials, Inc. and Southern Silica of Louisiana, Inc., to have plaintiff's claims against Ash Grove Cement Company, Clemco Industries Corporation, Custom Aggregates & Grinding, Inc., Hanson Aggregates, Inc. f/k/a Hanson Aggregates Central, Inc. f/k/a Pioneer South Central, Inc. f/k/a Pioneer Concrete of Texas, Inc., Humble Sand Co., Inc. d/b/a Humble Sand & Gravel, Inc., Parmelee Industries, Inc., Precision Packaging, Inc. f/k/a Quikrete Materials, Inc. and Southern Silica of Louisiana, Inc. dismissed without prejudice. The Court, having considered the motion, and being further advised that the parties to this order are in agreement, finds that the motion is well-taken and should be granted.

IT IS, THEREFORE, ORDERED that the claims of Plaintiff John McGilberry are dismissed without prejudice as to Defendants Ash Grove Cement Company, Clemco Industries Corporation, Custom Aggregates & Grinding, Inc., Hanson Aggregates, Inc. f/k/a Hanson Aggregates Central, Inc. f/k/a Pioneer South Central, Inc. f/k/a Pioneer Concrete of Texas, Inc., Humble Sand Co., Inc. d/b/a Humble Sand & Gravel, Inc., Parmelee Industries, Inc., Precision Packaging, Inc. f/k/a Quikrete Materials, Inc. and Southern Silica of Louisiana, Inc. with each party to

MAY 2 8 2010



MIN 40 683

AGREED TO:

Edwin S. Gault, Jr., MSB No. 10187
Jennifer J. Skipper, MSB No. 100808
FORMAN PERRY WATKINS KRUTZ & TARDY LLP
200 South Lamar Street, Suite 100
Jackson, Mississippi 39201-4099

Telephone: (601) 960-8600 Facsimile: (601) 960-8613

Attorneys for Defendants

Timothy W. Porter, MSB No. 9687 form T. Givens, MSB No. 101561 PORTER & MALOUF, P.A. P.O. Box 12768

Jackson, Mississippi 39236-2768

R. Allen Smith, MSB No. 99984 THE SMITH LAW FIRM 681 Towne Center Boulevard, Suite B Ridgeland, Mississippi 39157 Telephone: (601) 952-1422 Facsimile: (601) 952-1426

Attorneys for Plaintiff



Search Results Include Filings Through 06/28/2010 12:00 AM

Search

By Business Name

By Business ID

**By Officer Name** 

By Registered Agent

 New Corporations Annual Report

File Online

Verification

 Verify Certification Online Orders

Register for Online Orders

 Order Good Standing Fee Schedules

Corporations

Limited Partnerships

 Limited Liability **Partnerships** 

Limited Liability

Companies Miscellaneous

Registered Agents

 Download Corporate Forms and Instructions

Look Up an SIC Contact

Corporations Unit

Date: 7/6/2010

View Filed Documents

Name History

Name

QUIKRETE MATERIALS, INC.

Name Type

Legal

Business Corporation - Foreign - Information

Business ID:

533945

Status:

Name Change 12/18/1986

**Creation Date:** State of Incorporation:

AR

Principal Office Address:

8900 INDIAN CREEK PKY, SUITE 500

OVERLAND PARK KS 66210-1513 No Address

Listing Address:

Registered Agent

Agent Name:

Office Address:

C T CORPORATION SYSTEM

118 NORTH CONGRESS STREET

JACKSON MS 39205

Mailing Address:

Officers & Directors

Business

Home

Home | Accessibility Policy | Contact Us | E-mail Us | Links | Search

Copyright © 2010 Mississippi Secretary of State. All rights reserved. Due to the use of DHTML and Java, this Web site is optimized for Microsoft Internet Explorer 5+ or Netscape 6+.

## **APPLICATION FOR** AMENDED CERTIFICATE OF AUTHORITY

(Attachexact or conformed copy)

303574

PROFIT

I NONPROFIT

RECEIVED

The undersigned corporation, pursy	Marine The community
oration) of the Mississippi Code of 197	uant to Section 79-4-15.04 (if a profit corporation) or Seggio (79-11-36) (if a nonprof 72, hereby executes the following document and sets took:
The name of the corporation is	Quikrete Materials, Inc.
	315 Phillips Road, North Little Rock, AR 72117
The corporate name is changed to	Precision Packaging, Inc.
	Same As Above
The state or country of its incorporation	Name Change - Arkansas
The period of duration is changed to _	Name Change 7/8/93
	( // , , , , )
73% HO NAME COMPY	osass note Vice President squares John H. Ross III
	John H. Ross III
-	The name of the corporation is  The corporate name is changed to  The state or country of its incorporatio  The period of duration is changed to

Time: 8:00 A.M. Amount Received:

State of Mississippi

#00000



## State of Arkansas SECRETARY OF STATE

State Captol Little Rock, Arkansas 72201-1094

# CERTIFICATE OF GOOD STANDING

## OF A

## DOMESTIC CORPORATION

I, Bill McCuen, Secretary of State of records of domestic and foreign cor- office show:	of the State of Arkansas, and as such, keeper of the porations, do hereby certify that the records of this
PRECISIO	DH PACKAGING, INC.
a corporation chartered under the la filed Articles of Incorporation	ws of the State of ARKANSAS
I further certify that as far as the tered and in good standing, having poration in this State.	records show, this corporation is at this time char- met all the requirements governing a domestic cor-
In Testimony Whereof, I have be 20TH day of	percento set try hand and official seal, on this, the
	Bir of lun
	W. J. Bill McCuen, Secretary of State
	NICHOLE P. DAVIS Comparations Division

C-2/Rev 10-1-88



Search Results Include Filings Through 06/28/2010 12:00 AM

Search

By Business Name

By Business ID

By Officer Name

By Registered Agent

New Corporations
Annual Report

•File Online

Verification

Verify Certification
 Online Orders

Register for Online Orders

Order Good Standing
 Fee Schedules

Corporations

Limited Partnerships

Limited Liability
 Partnerships

•Limited Liability
Companies

Miscellaneous

Registered Agents

Download Corporate
 Forms and Instructions

Look Up an SIC

Contact

\*Corporations Unit

Date: 7/6/2010

**View Filed Documents** 

Name History

Name

Name Type

PRECISION PACKAGING, INC.

Legal

Business Corporation - Foreign - Information

**Business ID:** 

วนอเมษรราบ

604296

Status:

Good Standing 12/18/1986

Creation Date:

AR

State of Incorporation: Principal Office Address:

2805 Meter Road

Jackson MS 39204

Listing Address:

No Address

Registered Agent

**Agent Name:** 

Office Address:

**C T CORPORATION SYSTEM** 

645 LAKELAND EAST DR STE 101

FLOWOOD MS 39232

Mailing Address:

Officers & Directors

Business

Home

Home | Accessibility Policy | Contact Us | E-mail Us | Links | Search

Copyright © 2010 Mississippi Secretary of State. All rights reserved.

Due to the use of DHTML and Java, this Web site is optimized for Microsoft Internet Explorer 5+ or Netscape 6+.